

# **EXHIBIT A**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 SINGULARDTV GmbH,

5 Plaintiff,

6 -against-

Case No.  
1:21-cv-10130  
(VEC)

7 ZACHARY LeBEAU and KIMBERLY JACKSON,

8 Defendants.

9 -----x  
10 May 11, 2022  
11 9:36 a.m.  
12

13 Videotaped Deposition of ZACHARY LeBEAU,  
14 taken by Plaintiff, pursuant to Notice, held  
15 at the offices of Kobre & Kim LLP, 800 Third  
16 Avenue, New York, New York, before Joseph R.  
17 Danyo, a Shorthand Reporter and Notary Public  
18 within and for the State of New York.  
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22 Job No. 210800  
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A P P E A R A N C E S :

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BENJAMIN SAUTER, ESQ.

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By: NEIL POSTRYGACZ, ESQ.

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Attorney for Defendant Kimberly Jackson  
1330 Avenue of the Americas  
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By: PAUL CONDZAL, ESQ.

Also Present:

ERIC FISCHER, Videographer

~oOo~

1 ZACHARY LeBEAU

2 THE VIDEOGRAPHER: This is the start  
3 of media unit 1 of the video-recorded  
4 deposition of Zachary LeBeau in the matter  
5 of SingularDTV GmbH versus Zachary LeBeau  
6 and Kimberly Jackson filed in the United  
7 States District Court, Southern District  
8 of New York, Case No. 1:21-cv-10130(VEC).

9 This deposition is being held at  
10 Kobre & Kim LLP, 800 Third Avenue, New  
11 York, New York, on Wednesday, May 11, 2022  
12 at approximately 9:36 a.m. My name is  
13 Eric Fischer, the legal video specialist  
14 from TSG Reporting, Inc. The court  
15 reporter is Joe Danyo in association with  
16 TSG Reporting. All appearances are noted  
17 on the stenographic record.

18 Will the court reporter please swear  
19 in the witness.

20 Z A C H A R Y L e B E A U, after having been  
21 first duly sworn by Joseph R. Danyo, a Notary  
22 Public, was called as a witness and testified  
23 as follows:

24 EXAMINATION BY MR. SAUTER:

25 Q. Good morning, Mr. LeBeau. My name is

1 ZACHARY LeBEAU

2 Benjamin Sauter, an attorney for SingularDTV  
3 GmbH. Can I ask you to please state and spell  
4 your name for the record?

5 A. Zachary James LeBeau spelled  
6 Z-a-c-h-a-r-y, James, J-a-m-e-s, LeBeau, L-e  
7 capital B-e-a-u.

8 Q. And What is your current address?

9 A. 464 West 44th Street, Ph D, New York,  
10 New York, 10036.

11 Q. Have you ever been deposed before?

12 A. No.

13 Q. So to introduce you to the process  
14 and how I will be asking questions today and the  
15 format of that, a few ground rules.

16 A. Okay.

17 Q. First, when I ask a question, I ask  
18 that you please let me finish my question before  
19 you respond so that the record is clear and we  
20 are not talking over each other. Likewise, I  
21 will wait until you are done answering a question  
22 before I ask my next question. Do you  
23 understand that?

24 A. Yes.

25 Q. If you don't understand a question

1 ZACHARY LeBEAU

2 that I am asking, I ask that you please ask me to  
3 clarify it. If you don't, I will assume that  
4 you understand my question. Do you understand  
5 that?

6 A. Yes.

7 Q. In a deposition you need to give  
8 verbal answers because the transcript that is  
9 being typed doesn't pick up nods and shakes of  
10 the head, so I ask that you give verbal responses  
11 to my questions. Do you understand that?

12 A. Yes.

13 Q. If your attorneys object to questions  
14 that I ask, they may do that from time to time,  
15 but you still need to answer my questions unless  
16 they instruct you not to answer my question. Do  
17 you understand that?

18 A. Yes.

19 Q. If you want to take periodic breaks  
20 during the deposition, that is okay. Just let me  
21 know and I will try to be accommodating to that.  
22 We will plan to take a break about every hour or  
23 so. If you need one sooner than that, let me  
24 know, but I ask that you not ask for a break in  
25 the middle of a question, so please finish

1 ZACHARY LeBEAU

2 answering a question, and then we can discuss  
3 taking a break. Okay?

4 A. Okay.

5 Q. You have taken an oath to tell the  
6 truth. Do you understand that you are obligated  
7 to tell the truth in this deposition the same way  
8 as if you were in front of a judge in court in  
9 this case?

10 A. Yes.

11 Q. Is there any reason that you feel  
12 that you cannot do that today?

13 A. No.

14 Q. Are you on any medications that would  
15 prevent you from telling the truth?

16 A. No.

17 Q. In October 2016 SingularDTV conducted  
18 what is often referred to as an ICO or initial  
19 coin offering. Is that correct?

20 A. Yes.

21 Q. In essence, in that transaction  
22 SingularDTV generated Singles tokens and sold  
23 some of those tokens for Ethereum. Do you agree  
24 with that?

25 A. Yes.

1 ZACHARY LeBEAU

2 Q. Through that process, the company  
3 generated 580,000 Ethereum, correct?

4 A. 580,000 Ether, yes.

5 Q. Thank you for that clarification.  
6 When the company raised those 580,000 Ether  
7 through the ICO, where was that Ether initially  
8 stored?

9 A. In the company's cold wallet wallet  
10 address.

11 Q. Was that wallet address an address  
12 that begins 0XC7831?

13 A. I don't recall.

14 Q. Does that sound familiar to you?

15 A. I don't recall.

16 Q. We will come back to that, Mr.  
17 LeBeau. I will show you a document that  
18 hopefully will refresh your recollection. Right  
19 now unless you have a problem with it, I will ask  
20 that you assume that is the SingularDTV address,  
21 and I will ask you some questions to confirm that  
22 in a few minutes.

23 MR. POSTRYGACZ: Objection. Why  
24 don't we use the document instead of just  
25 assuming that that's the case?



1 ZACHARY LeBEAU

2 MR. SAUTER: I just said I will show  
3 him a document, and we will confirm that.

4 MR. POSTRYGACZ: Okay.

5 Q. The initial address that received the  
6 Ethereum that was raised, what was the procedure  
7 for accessing that Ethereum?

8 MR. CONDZAL: In 2016?

9 Q. In 2016 right after the ICO, what was  
10 the procedure for accessing the Ether that was  
11 raised?

12 A. An Icebox cold wallet system was put  
13 in place.

14 Q. Can you describe that system?

15 A. It was an ecosystem components that  
16 acted as a cold wallet for the wallet address.

17 Q. When you say a cold wallet, what do  
18 you mean?

19 A. In this case, I am referring to the  
20 wallet address of the GmbH that stored the Ether  
21 from the ICO.

22 Q. And does the word "cold" signify  
23 offline to you?

24 A. It can.

25 Q. So, in this context, when you used

1 ZACHARY LeBEAU

2 the word "cold wallet," were you referring to a  
3 system that maintained that address offline?

4 A. In this moment, yes.

5 MR. POSTRYGACZ: What moment, just to  
6 be clear?

7 MR. SAUTER: I'm referring right now  
8 to the address where the Ether was  
9 initially raised directly after the ICO.

10 Q. At that time.

11 A. Yes.

12 Q. It was held in a cold storage device  
13 called Icebox, correct?

14 A. It was stored -- Icebox is a  
15 software. The components that comprised the cold  
16 wallet gave access to the wallet address and the  
17 Ether.

18 Q. What were the components of Icebox?

19 A. The Icebox software itself, a Mac  
20 Mini that served as the interface, USB hard  
21 drives that contains wallet file, USB hard drives  
22 that contained the password and a seed phrase.

23 Q. What was the function of the Mac Mini  
24 computer?

25 A. It acted as an interface.

1 ZACHARY LeBEAU

2 Q. What do you mean by interface?

3 A. It was the device used to access the  
4 wallet address.

5 Q. Was it connected to the Internet?

6 A. No.

7 Q. You mentioned a USB device. Two USB  
8 devices. Can you describe what each of those was  
9 used for in the system?

10 A. There were two sets of USB hard  
11 drives. One set contained the wallet file that  
12 was used to gain access to the wallet address and  
13 the other set of USB hard drives contained the  
14 password that was used together with the wallet  
15 file to gain access to the wallet address.

16 Q. Were there passwords to access the  
17 USB devices themselves?

18 A. No.

19 Q. How did the USBs interact with the  
20 Mac Mini computer to make transactions from the  
21 cold wallet?

22 A. The USB hard drive that contained the  
23 wallet file was connected to the Mac Mini and  
24 from there the wallet file was accessed to then  
25 prompt a password. The password was then input.

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It didn't need to be connected to the USB or to the Mac Mini, it just needed to be accessed so the password could be seen and then input.

Q. So the USB that held the password didn't need to be plugged into the computer, but, if one needed to know the password, it would be on that USB device?

A. Correct.

Q. Is that accurate? Good. Were there private keys separate and apart from the USB devices to effectuate transactions?

A. If we are talking about 2016, no.

Q. You mentioned a seed phrase. What is that?

A. A seed phrase is a master key that allows access to a wallet address through a specific derivation path.

Q. So, using the seed phrase, one could access the wallet and effectuate transactions without the USBs that you just described. Is that accurate?

A. In 2016 using Icebox software, yes.

Q. What did the seed phrase look like? Was it a series of words? Was it something

1 ZACHARY LeBEAU

2 different?

3 A. It was 12 words.

4 Q. Who was involved in setting up the  
5 Icebox wallet in 2016?

6 A. I was. Joseph Lubin, Arie Levy-Cohen  
7 and Kim Jackson.

8 Q. Anybody else?

9 A. I don't recall.

10 Q. Do you recall if there were  
11 programmers who would have been involved in that  
12 process?

13 A. Christian Lundquist, the CTO of  
14 Consensus at the time, was in the office.

15 Q. What role, if any, did he have in how  
16 the Icebox system was set up?

17 A. Christian Lundquist was one of the  
18 main programmers of Icebox.

19 Q. Was the Icebox system set up before  
20 or after Ether was raised in the ICO?

21 A. Before.

22 Q. After it was set up, who maintained  
23 physical possession of the Mac Mini computer?

24 A. I did. It was placed in a safety  
25 deposit box in a bank that I had access to.

1 ZACHARY LeBEAU

2 Q. Were you the only one who had access  
3 to that safety deposit box?

4 A. Kim Jackson had access to that safety  
5 deposit box. She never accessed that safety  
6 deposit box.

7 Q. Is Kim Jackson your wife?

8 A. She is.

9 Q. Who had physical possession of the  
10 USB containing the wallet file at the time Icebox  
11 was set up?

12 A. Kim Jackson and myself.

13 Q. Was that in a safe deposit box as  
14 well?

15 A. Yes.

16 Q. Who had possession of the USB device  
17 containing the password?

18 A. Joseph Lubin and Arie Levy-Cohen.

19 Q. Did they each have their own separate  
20 device, or was there one device with a password?

21 A. They each had their own separate  
22 device.

23 Q. Do you know where those were kept?

24 A. I do not.

25 Q. For the USB with the wallet file, was

1 ZACHARY LeBEAU

2 there one USB with the wallet file, or were there  
3 two or more?

4 A. I had my copies. Kim had her copies.

5 Q. So how many did you have and how many  
6 did Kim have?

7 A. I had two. Kim had two. Joseph was  
8 given two. And Arie was given two.

9 Q. So in total, there were four USBs  
10 with the wallet file, two of which you had and  
11 two of which Kim had, is that correct?

12 A. Correct.

13 Q. And there were four copies total of  
14 the password USB, two of which Joe had and two of  
15 which Arie had?

16 A. Correct.

17 Q. Were all four of the USBs with the  
18 wallet file kept in the same safe deposit box?

19 A. Two were kept in the safety deposit  
20 box and two were kept in a safe at our apartment.

21 Q. Was the computer ever kept in a safe  
22 in your apartment or was it always in a safe  
23 deposit box?

24 A. It was always in a safety deposit box  
25 until -- in 2016.

1 ZACHARY LeBEAU

2 Q. The seed phrase, was that written  
3 down?

4 A. Yes, it was.

5 Q. How was it written down?

6 A. It was written down with pen and  
7 paper at the time of the wallet creation. Wallet  
8 address creation at the Consensus office.

9 Q. And at that time where was it kept?

10 A. It was kept in a safety deposit box.

11 Q. The same one with the computer and  
12 the USB file?

13 A. Correct.

14 Q. So all of those things were kept  
15 together in the same safety deposit box?

16 A. Yes.

17 Q. Was that seed phrase ever copied or  
18 reproduced in any other way?

19 A. No.

20 MR. POSTRYGACZ: Objection, by whom?  
21 Him?

22 Q. By anybody. Do you have any  
23 knowledge if that seed phrase was ever copied or  
24 reproduced?

25 MR. CONDZAL: I want to make sure the



1 ZACHARY LeBEAU

2 record is clear. Until now you are  
3 talking -- we are talking about 2016 now,  
4 and until you say otherwise, we are  
5 talking about 2016?

6 MR. SAUTER: I am going to get to all  
7 the other iterations of the wallet but  
8 right now I'm talking about the initial  
9 setup.

10 THE VIDEOGRAPHER: The time now is  
11 9:53 a.m. We are going off the record.

12 (Recess taken)

13 THE VIDEOGRAPHER: The time now is  
14 9:57 a.m. We are back on the record.

15 BY MR. SAUTER:

16 Q. Mr. LeBeau, are you familiar with the  
17 website called Etherscan?

18 A. Yes.

19 Q. I am going to show you a document I  
20 am going to mark as Exhibit 1.

21 (Plaintiff's Exhibit 1, Printout from  
22 Etherscan website, was so marked for  
23 identification, as of this date.)

24 Q. Mr. LeBeau, I will represent to you  
25 that this is a printout from that site. Do you

1 ZACHARY LeBEAU

2 see at the top it says Address. It has an  
3 0XC783102 written at the top?

4 A. Yes.

5 Q. Right below that, you see the word  
6 "SingularDTV wallet"?

7 MR. POSTRYGACZ: Where is that?

8 Okay. It is not right below it.

9 A. I see it.

10 Q. I am representing to you that this  
11 address is associated with SingularDTV wallet on  
12 Etherscan. Does that refresh your recollection  
13 as to whether that address is the address that  
14 corresponds to the cold wallet?

15 A. Yes.

16 Q. You can put that aside. Just to  
17 close that out, am I correct that that address is  
18 the original address for the SingularDTV cold  
19 wallet?

20 MR. POSTRYGACZ: Based on your  
21 representation that this is from  
22 Etherscan.

23 MR. SAUTER: He just said it  
24 refreshed his recollection.

25 Q. So based on your recollection now.

1 ZACHARY LeBEAU

2 A. Yes. The ending of the address  
3 refreshes my recollection.

4 Q. Thank you.

5 MR. CONDZAL: Are you done with that  
6 exhibit?

7 MR. SAUTER: I am done with that  
8 exhibit. Correct.

9 Q. The safe deposit box that you  
10 mentioned, were you alone able to access it or  
11 was it a dual entry by you and Ms. Jackson?

12 A. I was able alone to access it.

13 Q. Was Ms. Jackson able to access it  
14 alone?

15 A. She was able to. She never accessed  
16 it.

17 Q. When transactions at this time in  
18 2016 were made from the cold wallet, can you  
19 describe step by step how that would happen as a  
20 matter of process?

21 A. Arie Levy-Cohen and I would get  
22 together. I would bring the Mac Mini. We  
23 would hook it up to a monitor, a mouse, a  
24 keyboard, plug it in for power. He would bring  
25 his USB hard drive that had the password on it.

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I would bring the USB hard drive that had the wallet file on it. And then we would sit down and power on the Mac Mini, open up the Icebox software. I would plug in the USB hard drive that had the wallet file and he would open the file on his USB hard drive that had the password, and by prompting the wallet file and by entering the password, it gave us access to the wallet address.

Q. Then how would funds actually be sent from that address to another address?

A. We would input the wallet address of where the funds were being sent to, the amount, the Nonce. It's a prompt displaying the sequential event of transactions being sent in that manner with that software. A QR code was generated and then a telephone was used to scan the QR code, which then pushed the transaction over the network.

Q. A telephone is how it connected to the Internet?

A. Correct.

Q. Did you ever go through that process with Joe Lubin?

1 ZACHARY LeBEAU

2 A. No.

3 Q. How many times did you do it with  
4 Arie Cohen?

5 A. I don't recall.

6 Q. Less than ten or more than ten would  
7 you say?

8 A. I don't recall. I don't recall.

9 Q. I am going to show you a document  
10 that I will mark as Exhibit 2.

11 (Plaintiff's Exhibit 2, Document  
12 describing key management practices, was  
13 so marked for identification, as of this  
14 date.)

15 Q. This is a document that we received  
16 from your counsel. Are you familiar with this  
17 document?

18 MR. POSTRYGACZ: You don't have the  
19 Bates stamped versions?

20 MS. PERLMAN: This was the standalone  
21 document you sent to us the first time.  
22 It wasn't Bates stamped.

23 A. Yes. I am familiar with this  
24 document.

25 Q. What is it?

1 ZACHARY LeBEAU

2 A. It is a document describing possible  
3 key management practices.

4 Q. Do you know who wrote it?

5 A. I believe it was a group effort.

6 Q. Who was involved in that group?

7 A. Milad Mostavi, myself and I'm not  
8 sure who else was involved.

9 Q. Who is Milad Mostavi?

10 A. Milad Mostavi was a member of  
11 Consensus, a developer of Consensus.

12 Q. Where was he based?

13 A. In Bucharest, Romania.

14 Q. Do you know when this document was  
15 produced?

16 MR. POSTRYGACZ: Objection.

17 Produced by us or just produced in the  
18 course of business?

19 MR. SAUTER: Created.

20 Q. Do you know when this document was  
21 created?

22 A. Sometime before the creation of the  
23 wallet address.

24 Q. Is the procedure and description of  
25 Icebox that is reflected in this document, is

1 ZACHARY LeBEAU

2 that consistent with how Icebox was actually set  
3 up?

4 A. No.

5 Q. In what way is it not consistent?

6 A. As I read this third paragraph under  
7 the heading Cold Storage Using Icebox, it says  
8 this version prevents the seed from being  
9 displayed. That was never the case.

10 Q. How was the seed displayed in fact?

11 A. It is the first thing that pops up  
12 when you create a wallet address.

13 Q. When you refer to the wallet address,  
14 are you referring to the 0XC7 address that we  
15 just looked at?

16 A. I am referring to the 29 capital DA  
17 and little F address. Yes. I go by the ending.

18 Q. The last numbers in there?

19 A. Yeah. I do both usually, but it is  
20 easier the last three for some reason.

21 Q. For simplicity in this deposition, if  
22 I refer to that as the cold wallet address, can  
23 we agree that we're talking about the same  
24 address?

25 A. Pardon me. How do you refer to it?

1 ZACHARY LeBEAU

2 Q. The cold wallet address.

3 A. How do you say it? 0XC783?

4 Q. The first four letters and numbers.

5 Correct.

6 A. Okay.

7 Q. So, when you would access the  
8 interface on the Mac Mini, you would actually see  
9 the seed phrase for that wallet address?

10 A. When we created it. Yes.

11 Q. Who was there to see that?

12 A. All four founders.

13 Q. Is that when you wrote it down on a  
14 piece of paper?

15 A. Yes. It literally says write this  
16 seed phrase down and keep in a safe place, which  
17 was what happened.

18 Q. In Exhibit 2 that we are looking at  
19 now, there is a reference to a key store. Do you  
20 know what the key store is?

21 MR. CONDZAL: Do you want to direct  
22 his attention to that.

23 MR. POSTRYGACZ: Or give him time to  
24 read the whole document.

25 Take a second. Read the document at



1 ZACHARY LeBEAU

2 your pace. It is not a race.

3 THE WITNESS: I know.

4 A. Can you repeat the question, please.

5 Q. The document refers to something  
6 called a key store. My question is do you know  
7 what that is?

8 A. It is the wallet file I have been  
9 referring to.

10 Q. If you look at the second page of  
11 this document about halfway down, the next to  
12 last full paragraph, "The key store should be  
13 printed, laminated and kept in a prior approved  
14 safe." Did that ever happen?

15 A. No. These were just general  
16 guidelines at the time too. It didn't prove  
17 practical. It was wishful thinking, but how do  
18 you take a laminated piece of paper and then put  
19 it into a computer so you can prompt it to -- it  
20 is just not possible. So.

21 Q. The seed phrase that was generated  
22 and written down when the Icebox storage was  
23 created, do you still have access to that?

24 A. No.

25 Q. What happened to that?

1 ZACHARY LeBEAU

2 A. It was destroyed, although I have  
3 memorized it, so I haven't forgotten it.

4 Q. All 12 words?

5 A. Yes.

6 Q. When was it destroyed?

7 A. 2020.

8 Q. What about the Mac Mini computer and  
9 the USB keys, were they also destroyed?

10 A. Yes.

11 Q. Were they all destroyed at the same  
12 time?

13 A. No.

14 Q. I will come back to that. Let's do  
15 the declaration.

16 MR. CONDZAL: Are you finished with  
17 this document?

18 MR. SAUTER: I'm finished.

19 MR. CONDZAL: Can we take a  
20 one-minute break before you go to your  
21 next document.

22 THE VIDEOGRAPHER: The time now is  
23 10:11 a.m. We are going off the record.

24 (Recess taken)

25 THE VIDEOGRAPHER: The time now is

1 ZACHARY LeBEAU

2 10:14 a.m. We are back on the record.

3 BY MR. SAUTER:

4 Q. Mr. LeBeau, before the break, you  
5 referenced that you memorized the seed phrase for  
6 the cold wallet. When did you memorize that?

7 A. At the end of 2017.

8 Q. Why did you memorize it?

9 A. I felt considerable pressure that the  
10 wallet address access could be in danger and that  
11 the safest way to keep that safe was to memorize  
12 the seed phrase.

13 Q. Why did you feel that the wallet  
14 address was in danger?

15 A. I had been experiencing, my wife and  
16 I had been experiencing several hacking and  
17 fishing attempts against us and the company.

18 Q. When did that take place?

19 A. It started in the summer of 2016 and  
20 became a normal occurrence after that,  
21 particularly after the token generation event or  
22 the ICO. It got to a point even when my wife was  
23 physically impersonated at our local bank branch  
24 just a couple of blocks away from our house and  
25 that can be quite scary. So it just started in

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2 the summer of 2016 and progressed from there.

3 Q. So you thought the safest thing to do  
4 was to memorize the 12 word seed phrase, correct?

5 A. Yes.

6 Q. At the time that you memorized that  
7 phrase, where was the phrase being kept?

8 A. In a safety deposit box.

9 Q. So when you memorized it, where did  
10 you memorize it?

11 A. I took the seed phrase from the  
12 safety deposit box and started with the first  
13 four words. Then I placed it back into the  
14 safety deposit box and made sure I had those four  
15 words memorized. When I had those four words  
16 memorized, I went back to the safety deposit box  
17 to memorize the second set of four words. It  
18 progressed like this for some time until I had  
19 memorized all 12 words.

20 Q. Over what period of time did it take  
21 you to memorize the 12 words?

22 A. I don't recall.

23 Q. Do you recall when you started this  
24 process of trying to memorize the seed phrase?

25 A. At the end of 2017.

1 ZACHARY LeBEAU

2 Q. Do you recall when you finished being  
3 able to memorize the seed phrase?

4 A. I don't recall.

5 Q. Was it closer to a week, closer to a  
6 month, several months, ballpark?

7 A. I don't recall.

8 Q. How many total trips did it take to  
9 complete the memorization to the bank?

10 A. I don't recall.

11 Q. In memorizing the seed phrase, did  
12 you ever take the seed phrase out of the bank?

13 A. I don't recall.

14 Q. You don't recall if you would  
15 memorize the four words each time in the safe  
16 deposit box part of the bank or you took it out  
17 and memorized it outside of the bank?

18 A. The process was for me to stay in the  
19 safety deposit box room, remember those four  
20 words to the best of my ability, and then put it  
21 back into the safety deposit box.

22 Q. After you did that the first time,  
23 how long after that did it take before you went  
24 back the second time?

25 A. I don't recall.

1 ZACHARY LeBEAU

2 Q. Do you recall it being a matter of  
3 days, a matter of weeks?

4 A. I don't.

5 Q. You said earlier that you didn't  
6 think Kim Jackson had ever accessed the safe  
7 deposit box on her own. Is that accurate?

8 A. Yes.

9 Q. What is the basis for that?

10 A. I had the key to the safety deposit  
11 box. She didn't have a key. She never asked me  
12 for a key.

13 Q. Do you still remember the 12-word  
14 seed phrase sitting here today?

15 A. I do.

16 Q. And am I correct that you could use  
17 that to reconstitute the cold wallet if you  
18 wanted to?

19 A. No.

20 Q. Why not?

21 A. Because the Icebox software is no  
22 longer functional.

23 Q. When did the Icebox software become  
24 no longer functional?

25 A. It had functioning problems from the

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very beginning. In 2016 it wasn't functioning properly. In 2017 as well. By 2019, it was a completely obsolete piece of software that no longer had any developers developing on it and was completely nonfunctional in the entire cryptoverse.

Q. In what way was it not functional?

A. The developers didn't continue to maintain it, so you couldn't do anything with it. You couldn't access it. You couldn't run it as software. It wasn't functioning. It was inoperative.

Q. In 2019 literally if you tried to go through this process that we have been discussing to send Ethereum from the cold wallet, you wouldn't have been able to do that?

A. That's correct.

Q. The seed phrase, the paper copy that was created when the wallet was created, that was destroyed in 2020?

A. Correct.

Q. If you were concerned about the security of the wallet beginning in 2016, why did you wait until 2020 to destroy the seed phrase?

1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Objection.

3 A. The seed phrase was kept in a safety  
4 deposit box. It seemed a safe place.

5 Q. But you still went to the trouble to  
6 memorize it in 2017?

7 A. Correct.

8 Q. But you didn't destroy the seed  
9 phrase itself until 2020?

10 MR. POSTRYGACZ: Objection. Asked  
11 and answered. Is that a question or are  
12 you testifying, Counsel?

13 Q. Correct?

14 A. Sorry. Could you repeat the  
15 question.

16 Q. You testified that you memorized the  
17 seed phrase because you feared for the safety of  
18 the wallet, correct?

19 MR. POSTRYGACZ: Objection.

20 THE WITNESS: Do I answer?

21 MR. POSTRYGACZ: Yes.

22 MR. SAUTER: Yes.

23 A. Yes.

24 Q. The reason you memorized the seed  
25 phrase is because you thought somebody could get



1 ZACHARY LeBEAU

2 access to the seed phrase, correct?

3 A. No.

4 Q. So why did you memorize the seed  
5 phrase?

6 A. I thought someone could get access to  
7 the wallet address.

8 Q. How could they get access to the  
9 wallet address?

10 A. They could collect the components  
11 that encompassed the Icebox cold wallet.

12 Q. The USB key and the computer?

13 A. Correct.

14 Q. Those are also kept in the safe  
15 deposit box, correct?

16 A. In 2016, yes.

17 Q. Right.

18 MR. POSTRYGACZ: Objection. Whose  
19 USB drives?

20 Q. The Mac Mini and Mr. LeBeau's USB  
21 keys were kept in a safe deposit box, correct?

22 A. In 2016, yes.

23 Q. You thought that safe deposit box was  
24 secure, correct?

25 A. Yes.

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Q. So how could somebody get access to the Icebox wallet if two of the three components needed to access that wallet were in a safe deposit box?

A. During travel, when it was necessary to travel with those components, that was the danger, when they were outside of the safety deposit box.

Q. How did memorizing the seed phrase protect the wallet?

A. If there seemed to be any perceived security threat, then that seed phrase could be used to safeguard the funds to access the wallet address.

Q. Why was the seed phrase destroyed in 2020? The written seed phrase.

A. The private key was printed.

Q. So why destroy the seed phrase?

A. It became obsolete.

Q. If it was obsolete, then why destroy it?

MR. POSTRYGACZ: Objection.

Argumentative.

You can answer.

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A. There is a danger in holding any information, even obsolete information, primarily because bad actors, robbers, kidnappers, for example, don't understand the technical aspects of these components. It could put someone's life at risk if a robber or a kidnapper sees a seed phrase, theoretically they could think that is a valid seed phrase.

Q. At this time it was still in the safety deposit box?

A. At which time?

Q. The time it was destroyed.

A. No.

Q. Where was it when it was destroyed?

A. It was in my possession.

Q. Where was that?

A. At my apartment.

Q. Why was it in your apartment?

A. The pandemic started. The banks shut down. They closed. I perceived that as a problem, potential security issue, a bank being closed, and felt that it was appropriate to hold it in my safe in my apartment.

Q. Which bank held the safe deposit box

1 ZACHARY LeBEAU

2 with the Icebox components?

3 MR. POSTRYGACZ: At what point?

4 Q. All points in 2016, which bank?

5 A. TD Bank.

6 Q. Was there any other bank that held  
7 the Icebox cold wallet components?

8 A. No.

9 Q. Which TD Bank branch held it?

10 A. The TD Bank branch at 40 Fulton  
11 Street downtown.

12 Q. Are you saying that that branch  
13 closed during the pandemic?

14 A. I believe it did.

15 Q. When is your recollection of when  
16 that happened?

17 A. In the beginning of the pandemic. I  
18 don't recall exactly when. Banks were closing.

19 Q. Is it still closed today?

20 A. No.

21 Q. Did they notify you that they were  
22 closing?

23 A. I don't recall.

24 Q. Did you take the seed phrase out of  
25 the bank vault in response to an understanding

1 ZACHARY LeBEAU

2 that the bank was closing?

3 A. I don't recall.

4 Q. Did you tell anybody that you were  
5 taking the seed phrase out of the safe deposit  
6 box?

7 A. I don't recall.

8 Q. Do you think there would have been  
9 any correspondence about that?

10 A. No.

11 Q. How long was it at your apartment  
12 before it was destroyed?

13 A. I don't recall.

14 Q. More than a week?

15 MR. POSTRYGACZ: How long was what  
16 kept at the apartment?

17 MR. SAUTER: The seed phrase, which  
18 is what we are talking about.

19 A. I don't recall how long.

20 Q. More than a week?

21 A. Yes.

22 Q. More than a month?

23 A. I don't recall.

24 Q. How about the Mac Mini computer, was  
25 that also taken out of the safe deposit box and

1 ZACHARY LeBEAU

2 taken to your apartment?

3 A. No.

4 Q. Was it ever stored anywhere besides  
5 the TD Bank that we discussed?

6 MR. POSTRYGACZ: What is it?

7 MR. SAUTER: The Mac Mini what we are  
8 talking about.

9 MR. POSTRYGACZ: We were also talking  
10 about the seed phrase. Please be specific  
11 when we are jumping.

12 Q. How about the Mac Mini computer, was  
13 that taken out of the safe deposit box and taken  
14 to your apartment?

15 A. No.

16 Q. Was it ever stored anywhere else  
17 besides the TD Bank that we have been discussing?

18 A. Yes.

19 Q. Where else?

20 A. It was taken to Europe in 2017.

21 Q. Why was it taken to Europe in 2017?

22 A. Arie and I had to do transactions.  
23 Arie was in Switzerland.

24 Q. Did you take it with you on the  
25 airplane?

1 ZACHARY LeBEAU

2 A. Yes.

3 Q. Was it stored anywhere besides your  
4 person during that trip?

5 A. Yes.

6 Q. Where?

7 A. In a lockbox in my Airbnb.

8 Q. Was that lockbox something you  
9 brought with you or something in the Airbnb?

10 A. No, it was something in the Airbnb.

11 Q. After that trip, was it brought back  
12 to the United States?

13 A. No.

14 Q. Where was it left?

15 A. It was destroyed in Bucharest.

16 Q. During that trip?

17 A. During that trip.

18 Q. What about the USB key with the  
19 wallet file, was that ever stored anywhere  
20 besides the TD Bank safe deposit box?

21 A. The two sets, the two USB hard drives  
22 that were designated to be stored in the safety  
23 deposit box were stored in the safety deposit  
24 box. I don't recall it being stored anywhere  
25 else. I had two sets. One stored in the safety

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deposit box and one stored in my apartment. The one I stored in my apartment I did take with me to Europe in 2017.

Q. Did you take both of them with you to Europe?

A. Both of what?

Q. Both of the USB keys that were being stored in your lockbox in your apartment.

A. No. I took one.

Q. Was the one that you took with you destroyed in Bucharest along with the Mac Mini computer?

A. No.

Q. What happened to it?

A. I took it back to the United States.

Q. Why did you take it back?

A. It was my version of the wallet file.

Q. Could you use that wallet file to recreate the cold wallet address?

A. No.

Q. Could you use it in conjunction with the seed phrase to recreate the cold wallet address?

A. No.



1 ZACHARY LeBEAU

2 Q. So why would you keep the wallet  
3 file?

4 MR. POSTRYGACZ: Objection. Asked  
5 and answered.

6 Go ahead.

7 A. Because I could use that with the  
8 password to access the wallet address.

9 Q. The wallet file and the password  
10 could together be used to access the wallet?

11 A. Correct, via Icebox software.

12 Q. So why was the Mac Mini computer  
13 destroyed?

14 A. I thought it could have been stolen.

15 Q. On its own the Mac Mini computer  
16 couldn't do anything, correct?

17 A. I know that, but potential robbers or  
18 kidnappers don't know that. And also I had my  
19 wallet file on my possession as well.

20 Q. So, when you came back to the United  
21 States, where did you store the USB key that you  
22 took with you to Switzerland?

23 A. I put it back in the safe.

24 Q. The trip to Switzerland where the Mac  
25 Mini was destroyed, when was that?

1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Objection. That's  
3 not what he testified to.

4 Q. The Mac Mini was destroyed in  
5 Switzerland, correct?

6 A. No.

7 Q. Where was it destroyed?

8 A. The Mac Mini was destroyed in  
9 Bucharest.

10 Q. What was the date that the Mac Mini  
11 was destroyed in Bucharest?

12 A. I don't recall the exact date, but it  
13 was in the beginning of October of 2017.

14 Q. Who was there at the time it was  
15 destroyed?

16 A. Consensus developers and personnel.

17 Q. Do you remember anybody in  
18 particular?

19 A. Milad Mostavi oversaw the destruction  
20 of the Mac Mini interface. There were two men  
21 dismantling it. Catalin. I remember him being  
22 the primary guy deconstructing it. I don't  
23 remember his last name.

24 Q. What happened to it after it was  
25 deconstructed?

1 ZACHARY LeBEAU

2 A. It was thrown away, disposed of in  
3 several different trash receptacles around the  
4 City of Bucharest.

5 Q. Who performed that?

6 A. I did.

7 Q. Was Kim Jackson with you?

8 A. When?

9 Q. At the time of the destruction.

10 A. Yes.

11 Q. Was she with you when the device was  
12 thrown away?

13 A. No.

14 Q. Was there a videotape made during the  
15 destruction process?

16 A. I don't believe so.

17 Q. You don't recall anybody videotaping  
18 the destruction?

19 A. I do not.

20 Q. I am going to show you Exhibit 3. A  
21 copy of your declaration. You can take a look at  
22 it.

23 (Plaintiff's Exhibit 3, Declaration,  
24 was so marked for identification, as of  
25 this date.)

1 ZACHARY LeBEAU

2 Q. I ask you to turn to paragraph 40.  
3 Actually, before I get there, do you recognize  
4 this document?

5 A. I do.

6 Q. This is a declaration you submitted  
7 in the case that brings us here today, correct?

8 A. Pardon me? Can you repeat the  
9 question.

10 Q. This is a declaration that you  
11 submitted in a court case in the Southern  
12 District of New York, correct?

13 A. Yes.

14 Q. Is that your signature at the end?

15 A. Yes.

16 Q. When you wrote this, you were telling  
17 the truth?

18 A. Yes.

19 Q. Sitting here today and having just  
20 reviewed the document, is there anything in it  
21 that you think needs to be changed?

22 MR. POSTRYGACZ: Do you want him to  
23 review the entirety of the document?

24 Q. Sitting here today, that you have  
25 read, is there anything that you think needs to

1 ZACHARY LeBEAU

2 be changed?

3 MR. CONDZAL: Do you want to take a  
4 few minutes to review the document?

5 THE WITNESS: I should read it.

6 MR. CONDZAL: Do you want to go off  
7 the record for five minutes to let him  
8 read it?

9 MR. SAUTER: We can go off the  
10 record.

11 THE VIDEOGRAPHER: The time is 10:39  
12 a.m. We are going off the record.

13 (Recess taken)

14 THE VIDEOGRAPHER: The time now is  
15 10:57 a.m. We are back on the record.  
16 This begins media 2.

17 BY MR. SAUTER:

18 Q. Before we turn to Exhibit 3, I have a  
19 couple of follow-up questions. The seed phrase  
20 that you memorized, if I understood your  
21 testimony earlier, you said that the seed phrase  
22 can't be used to reconstitute the wallet outside  
23 of Icebox. Is that accurate?

24 A. What do you mean by reconstitute?

25 Q. Can you use the seed phrase to access

1 ZACHARY LeBEAU

2 the cold storage wallet outside of Icebox?

3 A. There were only two ways to ever  
4 access the cold wallet through the seed phrase.  
5 One of those ways was through the Icebox  
6 software.

7 Q. What was the other way?

8 A. Through the Tokit.IO software.

9 Q. So if one knew the seed phrase, one  
10 could access the wallet either through Icebox or  
11 through Tokit.IO software?

12 A. Correct.

13 Q. But no other way?

14 A. Correct.

15 Q. How do you know that there is not  
16 another way?

17 A. The seed phrase is very specific to  
18 the derivation path. To my knowledge, the only  
19 two software systems that ever used that specific  
20 derivation path was Icebox and Tokit.

21 Q. Does Tokit still exist?

22 A. No.

23 Q. When did it -- did it ever exist?

24 A. Yes.

25 Q. When did it stop existing?

1 ZACHARY LeBEAU

2 A. It began degrading and becoming  
3 inoperative in 2020 and now it is completely  
4 defunct.

5 Q. So your understanding is that there  
6 would be no way to use the seed phrase that  
7 you have memorized to access the cold storage  
8 wallet?

9 MR. POSTRYGACZ: Objection. Asked  
10 and answered.

11 Go ahead.

12 A. Correct.

13 Q. When the Mac Mini was destroyed in  
14 Bucharest, it just held Icebox software, correct?

15 A. Correct.

16 Q. Why go to the trouble to dispose of  
17 it in multiple trash cans across Bucharest?

18 MR. POSTRYGACZ: Objection. Asked  
19 and answered. Argumentative.

20 But go ahead.

21 A. It is an appropriate safe way to  
22 dispose of a sensitive piece of electronics.

23 Q. Aside from the Icebox software, was  
24 there anything else on that computer?

25 A. No.

1 ZACHARY LeBEAU

2 Q. Why do you consider it sensitive or  
3 why did you consider it sensitive?

4 A. It was one of the components to  
5 access the wallet address.

6 Q. And that component could have been  
7 recreated on another computer, correct?

8 A. At that time, yes.

9 Q. Were there other people at  
10 SingularDTV who were made aware of the  
11 destruction of the Mac Mini computer when it was  
12 destroyed in Bucharest?

13 MR. POSTRYGACZ: Objection.

14 SingularDTV LLC, SingularDTV GmbH, both?

15 Q. The GmbH.

16 A. Yes.

17 Q. Who?

18 A. All the founders were made aware.

19 Q. Were they made aware before it was  
20 destroyed or after?

21 A. I don't recall before. Definitely  
22 after.

23 Q. How were they made aware of that?

24 A. I don't recall.

25 Q. So you don't recall if they approved



1 ZACHARY LeBEAU

2 the destruction of the Mac Mini before it was  
3 destroyed?

4 MR. POSTRYGACZ: Objection.

5 A. I don't recall.

6 Q. Turn to Exhibit 3 that is right in  
7 front of you, your declaration. Have you had a  
8 chance now to review it?

9 A. Yes.

10 Q. Is there anything that you stated in  
11 this declaration that you would change sitting  
12 here today?

13 A. Probably word things differently  
14 today.

15 Q. What would you word differently?

16 A. Well, maybe not. I see that this is  
17 referring to 2016, so.

18 Q. What are you referring to when you  
19 say it is referring to 2016?

20 A. 43. The original wallet which  
21 requires a key from Lubin and Cohen remains in  
22 place and I still have access to the failsafe  
23 master key. If that is referring to 2016, that  
24 is accurate, but -- that is accurate then if it  
25 is referring to 2016.

1 ZACHARY LeBEAU

2 Q. So in 2016 you had access to the  
3 failsafe master key and the original wallet  
4 was in place. Is that what you are saying right  
5 now?

6 A. Yes.

7 Q. The date that you wrote this  
8 declaration, December 7, 2021, are you now saying  
9 that what you wrote in 43 is not accurate?

10 A. Well, this is referring to 2016.

11 Q. Your testimony is paragraph 43 is  
12 referring to 2016?

13 A. The original wallet which requires  
14 a -- I would rephrase that now to wallet address  
15 to be even more specific. The wallet address has  
16 never changed. It has only been the access to  
17 the wallet address that has ever changed.

18 Q. Sorry. You would change what to  
19 address?

20 A. It says the original wallet. I think  
21 that is confusing.

22 Q. The original wallet refers to Icebox,  
23 correct?

24 A. Well, I would say this refers to the  
25 original wallet address because that remains in

1 ZACHARY LeBEAU

2 place. The wallet address has never changed.

3 Q. The wallet --

4 A. It has always been the same from  
5 creation until now.

6 Q. Does that wallet address sitting here  
7 today require a key from Lubin and Cohen?

8 A. No, because the Icebox software is  
9 completely inoperative and defunct, so this  
10 entire quote wallet setup is obsolete.

11 Q. So when you wrote, let's take it one  
12 step at a time. What you wrote, the original  
13 wallet which requires a key from Lubin and Cohen  
14 remains in place. I'm correct that the original  
15 wallet, the Icebox wallet, does not remain in  
16 place, correct?

17 A. The original, the Icebox wallet does  
18 not remain in place. The wallet address remains  
19 in place.

20 Q. So why did you write the original  
21 wallet which requires a key from Lubin and Cohen  
22 remains in place?

23 A. It could mean referring to 2016.

24 Q. But it is written in the present  
25 tense. The original wallet which requires a key

1 ZACHARY LeBEAU

2 from Lubin and Cohen remains in place. Remains  
3 is a present tense verb, correct?

4 A. The original wallet address remains  
5 in place. The actual cold wallet itself does not  
6 remain in place.

7 Q. Okay.

8 A. It seems to me --

9 MR. POSTRYGACZ: Wait for him to have  
10 a question.

11 A. Apologies.

12 Q. At the time you wrote this  
13 declaration in December 7, 2021, it also would  
14 not have been true to say the original wallet  
15 address requires a key from Lubin and Cohen  
16 because in December of 2021 the wallet address  
17 did not require a key from Lubin and Cohen,  
18 correct?

19 MR. CONDZAL: Hold on one second,  
20 please.

21 (Discussion off the record)

22 MR. SAUTER: Is there an objection?  
23 Are you instructing the witness not to  
24 answer?

25 A. I know what this is. This sentence

1 ZACHARY LeBEAU

2 is written in present tense from the past point  
3 of view. So this sentence is written in present  
4 tense as if it was 2016.

5 Q. So your testimony sitting here today  
6 is, when you wrote paragraph 43, you were writing  
7 it as if, when you wrote this declaration, you  
8 were writing it in 2016? Is that your testimony  
9 today?

10 A. Yes.

11 MR. POSTRYGACZ: Objection.

12 Q. Can you look at paragraph 42.

13 A. 42.

14 Q. The first sentence says, "Ultimately  
15 once Consensus stopped maintaining the Icebox  
16 interface, the software keys degraded and became  
17 unusable." Do you see that?

18 A. Yes.

19 Q. The next sentence says, "Following  
20 Cohen's resignation, I alone administered the  
21 wallet again without objection or challenge." Do  
22 you see that sentence?

23 A. Yes.

24 Q. So, in that sentence, your point of  
25 view is not 2016, correct?

1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Objection.

3 A. Correct. It is not 2016.

4 Q. Because according to you, Mr. Cohen  
5 resigned after 2016, correct?

6 A. Correct.

7 Q. So after that happened, you are  
8 saying you alone administered the wallet after  
9 2016, correct?

10 A. No. After, I administering the  
11 wallet alone would have been late 2018 on.

12 Q. So when you wrote paragraph 42, you  
13 were referring to the time period 2018 on.  
14 Correct?

15 A. Cohen resigned April of 2019.

16 Q. So when you wrote paragraph 42, you  
17 were referring to after Mr. Cohen allegedly  
18 resigned in 2019, correct?

19 MR. POSTRYGACZ: Objection.

20 A. Yes. This sentence states after  
21 Cohen's resignation, which was April 2019. I  
22 alone administered the wallet.

23 Q. The next sentence says, "I suggested  
24 to Lubin that we reestablish multi-signature  
25 controls and preferences." In that sentence you

1 ZACHARY LeBEAU

2 are also referring to events that took place  
3 after 2016, correct?

4 A. I am referring to events that took  
5 place in 2019.

6 Q. So what about paragraph 43 makes you  
7 think you are speaking from a 2016 point of view?

8 MR. POSTRYGACZ: Objection.

9 A. Because none of the keys, none of the  
10 USB, the key from Lubin and Cohen would not  
11 access the wallet address today. The seed  
12 phrase would not access the wallet address today.

13 Q. That is what you testified to earlier  
14 today, I understand that, but it is not what you  
15 wrote in paragraph 43, so I am trying to  
16 understand in paragraph 43 why you wrote "The  
17 original wallet which requires a key from Lubin  
18 and Cohen remains in place."

19 MR. POSTRYGACZ: Objection. Asked

20 and answered.

21 Q. The founders, your testimony now when  
22 you wrote these words, you wrote them as if you  
23 were speaking in 2016, and I am just trying to  
24 understand what about this paragraph suggests  
25 that you were speaking from a 2016 point of mind

1 ZACHARY LeBEAU

2 as opposed to just saying something that was not  
3 correct?

4 A. Well, it couldn't be spoken from  
5 today, because it is not possible to access the  
6 wallet address with the seed now and with Lubin  
7 and Cohen's password.

8 Q. So if somebody reading this  
9 declaration were to understand it to mean today,  
10 not 2016, that understanding would be incorrect,  
11 right?

12 MR. POSTRYGACZ: Objection. Asked  
13 and answered.

14 A. It just requires the word "address"  
15 after wallet.

16 Q. Let's go back to that. If it said  
17 address, sir, the original address which requires  
18 a key from Lubin and Cohen remains in place, that  
19 too would be false, wouldn't it, because the  
20 address today does not require a key from Lubin  
21 and Cohen, correct?

22 MR. POSTRYGACZ: Objection.

23 A. Well, the original wallet address  
24 remains.

25 Q. The original wallet address remains,



1 ZACHARY LeBEAU

2 I understand that, but the original wallet  
3 address does not still require a key from Lubin  
4 and Cohen, correct?

5 MR. POSTRYGACZ: Objection. Asked  
6 and answered.

7 A. You would not be able to access the  
8 wallet address with the USB hard drive password  
9 from Lubin and Cohen. Correct.

10 Q. Not only would you not be able to  
11 access it but it doesn't require it.

12 MR. POSTRYGACZ: Is that a question,  
13 Counsel?

14 Q. Correct?

15 MR. POSTRYGACZ: Objection. Asked  
16 and answered.

17 A. Apologies. Can you repeat the  
18 question.

19 Q. In December 2021, you were able to  
20 make transactions from the cold wallet on your  
21 own without any keys from Lubin and Cohen,  
22 correct?

23 A. I was able to make transactions from  
24 the wallet address without keys, without Lubin  
25 and Cohen, correct.

1 ZACHARY LeBEAU

2 Q. As of December 2021, the original  
3 wallet, the Icebox wallet, did not remain in  
4 place is your testimony today, correct?

5 A. The original Icebox wallet did not,  
6 ended, it did not exist in 2021.

7 Q. Look at paragraph 40.

8 A. Yes.

9 Q. One more question. When you refer to  
10 the failsafe master key in paragraph 43.

11 A. Yes.

12 Q. What are you referring to?

13 A. The seed phrase.

14 Q. The 12-word seed phrase?

15 A. Yes.

16 Q. But at the time that you wrote this  
17 in December 2021, that 12-word seed phrase could  
18 not have been used to access the wallet according  
19 to your testimony today, correct?

20 A. The seed phrase. Did you say  
21 December 2021?

22 Q. Correct. In December 2021, could the  
23 12-word seed phrase that you have memorized have  
24 been used to access the cold wallet?

25 A. May I ask a question? Is that

1 ZACHARY LeBEAU

2 possible?

3 MR. POSTRYGACZ: If it is a rephrase.

4 Q. If there is something that you don't  
5 understand, let me know and I will try to  
6 rephrase.

7 MR. CONDZAL: Do you want the  
8 question reread?

9 THE WITNESS: No.

10 A. The seed phrase would have accessed  
11 the cold wallet address in 2021 through Tokit.IO.  
12 That was operational for that purpose at that  
13 time.

14 Q. In December 2021?

15 A. Yes.

16 Q. You testified earlier that Tokit  
17 stopped existing in 2020, so can you explain what  
18 you mean?

19 A. No. I testified that Tokit started  
20 to become inoperative in 2020. It became defunct  
21 in 2021.

22 Q. What is the difference?

23 A. The difference is in 2020 it started  
24 to show, it started not to work properly.

25 Q. How did it not work properly?

1 ZACHARY LeBEAU

2 A. Certain functions just wouldn't work.  
3 For example, the wallet interface stopped  
4 working. It required developers to maintain it.  
5 This became an issue all throughout 2020 and in  
6 2021 to a point where the only reason it was kept  
7 functioning was to send the Ether from the wallet  
8 address to the escrow agent.

9 Q. So to be clear, at the time that you  
10 sent, am I correct that you personally sent Ether  
11 to the escrow agent?

12 A. Yes.

13 Q. And that was done from a wallet on  
14 Tokit?

15 A. No. It was done from the exact same  
16 wallet address from Tokit.IO.

17 Q. When you say wallet address, you mean  
18 the cold storage wallet address ending in 9DAF,  
19 correct?

20 A. Correct.

21 Q. At that time you could have used the  
22 seed phrase that you had memorized to  
23 reconstitute the wallet on Tokit.IO, correct?

24 MR. POSTRYGACZ: Objection. At what  
25 time?

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2 Q. In December 2021.

3 A. I could use the seed phrase to access  
4 the wallet address. Correct.

5 Q. And send funds from the wallet  
6 address?

7 A. Yes.

8 Q. You could have done that as of the  
9 date that you sent funds to the escrow agent?

10 A. That was the point to keep Tokit.IO  
11 operational until the escrow agent received the  
12 Ether.

13 Q. How did you access Tokit.IO

14 A. Through the seed.

15 Q. Was Tokit.IO software on a computer?  
16 Was it in a cloud?

17 A. On the Internet like online banking.  
18 You could access it from anything, phone, laptop,  
19 computer, tablet, et cetera.

20 Q. Would you describe that as an  
21 interface?

22 A. Tokit.IO

23 Q. Correct.

24 A. A website like online banking.

25 Q. And you had access to that on the

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2 Internet?

3 A. Yes.

4 Q. So at any point until the Ether was  
5 sent to the escrow agent, you could have used the  
6 seed phrase that you had memorized to access the  
7 cold storage wallet on Tokit.IO

8 A. Not at any point.

9 Q. Why not?

10 A. When Tokit.IO broke down, there was  
11 no access.

12 Q. When was the last point in time when  
13 you could access the wallet on Tokit.IO

14 A. The day that the Ether was sent to  
15 the escrow agent.

16 Q. But also before that date you could  
17 have used the seed phrase to access the cold  
18 wallet?

19 A. I could use the seed phrase to access  
20 the wallet address when Tokit.IO was operational.

21 Q. When did it become inoperational?

22 A. It began in 2020.

23 Q. Right, but you could also use the  
24 seed phrase to access the cold wallet on Tokit.IO  
25 after 2020 into 2021, correct?

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2 A. It would break in 2020. We would  
3 have to fix it. It would break again. We would  
4 fix it. It would break again. It was a  
5 recurring theme with Tokit.IO, so, if it was  
6 maintained, we could get it working again.

7 Q. My question was different. You could  
8 have used the seed phrase to access the cold  
9 wallet on Tokit.IO in 2021, correct?

10 A. Yes.

11 Q. Can you still do that today?

12 A. No.

13 Q. Why not?

14 A. Tokit.IO does not function.

15 Q. When did it stop functioning in a way  
16 that would prevent you from using the seed phrase  
17 to access the cold wallet?

18 A. After I sent the Ether to the escrow  
19 agent.

20 Q. Who operates Tokit.IO, if you know?

21 A. Nobody does.

22 Q. Who did operate Tokit.IO prior to  
23 sending the Ether to the escrow agent?

24 A. In 2021, it was SingularDTV.

25 Q. Was there a chief executive of

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2 Tokit.IO

3 A. No.

4 Q. Was there an executive team that was  
5 in charge of Tokit.IO 1

6 A. Not in 2021.

7 Q. What about in 2020?

8 A. Not in 2020 either.

9 Q. What about 2019?

10 A. No executive team.

11 Q. Did you ever have a role in Tokit.IO

12 A. I had a role in Tokit.IO in 2017 and  
13 2018.

14 Q. What was your role?

15 A. I was one of the original creators of  
16 it.

17 Q. Did you invest money in it?

18 A. Me personally?

19 Q. Yes.

20 A. No.

21 Q. Did SingularDTV invest money in it?

22 A. Yes.

23 Q. At that time, when you were involved  
24 in Tokit.IO, who maintained the wallet platform?

25 MR. POSTRYGACZ: Objection.



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2 A. Developers hired, Consensus  
3 developers hired by SingularDTV.

4 Q. Could Tokit.IO be made to operate  
5 again if one were to invest the resources and  
6 development personnel?

7 MR. POSTRYGACZ: Objection.

8 A. I don't know.

9 Q. Is there any reason you are aware of  
10 that it could not become operational again?

11 A. Yes.

12 Q. What is that?

13 A. As it has been explained to me, code  
14 rots. A software program isn't developed in a  
15 vacuum. It is developed with several  
16 interworking, interconnected, interoperable  
17 parts, software, et cetera. If those parts  
18 aren't upgraded and maintained and kept  
19 cohesively together, then software rots and  
20 becomes unusable. You have to start from  
21 scratch. So Tokit.IO could never exist again.  
22 You would have to start from scratch and build  
23 something that operated similarly perhaps.

24 Q. In January 2020 when Ether was sent  
25 to the escrow agent, at that point Tokit.IO

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2 operated well enough to effectuate that  
3 transaction, correct?

4 A. Its only purpose for operating was to  
5 send the Ether to the escrow agent.

6 Q. And it was able to effectuate that  
7 transaction at that time?

8 A. That was the purpose for it being  
9 operational, yes.

10 Q. So what changed from that transaction  
11 that made it unable to perform that kind of  
12 transaction again?

13 A. I don't know.

14 Q. If Tokit were to become usable again,  
15 would you be able to use the seed phrase to  
16 access the cold wallet?

17 MR. POSTRYGACZ: Objection.

18 A. I don't think Tokit could become  
19 usable again.

20 Q. What is your basis for saying that?

21 A. Just as I said, Tokit was developed  
22 not in a vacuum but with several other softwares  
23 and components that needed to be maintained and  
24 upgraded together in order for it to be Tokit.  
25 As it has been explained to me by developers,

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code rots. Once that code is rotted, you can't reconstitute or rebuild that code. You have to program brand new code. So it would need to be a software program using the same derivation path would need to be developed, but that would not be Tokit.IO.

Q. Explain code rots to me because I have a vision of code that it is written down and it still exists, so in what way does it rot? Are you saying it no longer literally exists or it doesn't work anymore?

MR. POSTRYGACZ: Objection, compound question.

A. As it has been explained to me by developers, software isn't developed in a vacuum. It requires a number of different software systems and components to work together, so if those software systems and components are active, if they are constantly being updated and upgraded and worked on, maintained, by developers, and another component or software is not, then it degrades and is left behind. So rotting in this sense means that code becomes nonfunctional anymore. It doesn't work with the other parts.

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2 Q. In January 2022, those systems and  
3 components worked well enough to allow the  
4 transfer to the escrow agent to occur, correct?

5 MR. POSTRYGACZ: Objection. What  
6 systems and components?

7 A. Tokit had been in a state of rot  
8 since 2020. It was only kept functional to do  
9 one thing in January, and that was to send the  
10 Ether to the escrow agent.

11 Q. But sitting here today, you can't  
12 tell me what has changed from then to now that  
13 would prevent that from happening again?

14 A. It would require input from the  
15 developers to be accurate and precise.

16 Q. Paragraph 40 of your declaration,  
17 sir. You wrote, "On two separate occasions I met  
18 with Arie to access the wallet and had to use the  
19 seed phrase when Arie's access failed." What are  
20 you referring to in this paragraph?

21 A. Arie and I would get together to  
22 access the cold wallet, me with my wallet file  
23 and him with his password, to access the wallet  
24 address and make transactions. His password  
25 failed on two occasions, so we were unable to

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2 access the wallet address and the company's  
3 funds.

4 Q. Did his password work on other  
5 occasions?

6 A. Yes.

7 Q. So when you say on two separate  
8 occasions, you are referring to the two occasions  
9 when you had to use the seed phrase?

10 A. Yes.

11 Q. There were other occasions where you  
12 and Arie got together to spend funds from the  
13 wallet and his key worked?

14 A. Yes. His password worked.

15 Q. Do you recall when the two occasions  
16 were when his key failed?

17 A. Early on in 2016. One was definitely  
18 in 2016. The other one could have been early  
19 2017. I don't recall exactly the second one.

20 Q. Do you know why they had failed?

21 A. No.

22 Q. Were they the first two times that he  
23 tried to use it?

24 A. He tried over and over and over until  
25 we decided it wasn't going to work and had to go

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2 get the seed phrase.

3 Q. When you used the seed phrase to  
4 access the wallet, was Arie there at that time?

5 A. Yes.

6 Q. How did that process work to use the  
7 seed phrase to access the wallet?

8 MR. POSTRYGACZ: On these two  
9 occasions?

10 MR. SAUTER: Correct.

11 A. It prompts you to type in the seed  
12 phrase. The Icebox software prompts you to enter  
13 the 12-word seed phrase.

14 Q. Is that like I forgot my password  
15 button, and then it asks you for the seed phrase?  
16 The way you described it earlier, as I understood  
17 it, was you put in the wallet file, and it asks  
18 you for a password. I understand these two  
19 occasions that the password didn't work, so how  
20 do you get from there to using the seed phrase?

21 MR. POSTRYGACZ: I believe there are  
22 two open questions on the record. Which  
23 one do you want him to answer?

24 Q. Do you understand my question?

25 A. No.

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2 Q. When does Icebox ask you to enter the  
3 seed phrase?

4 MR. POSTRYGACZ: At which point in  
5 time? Any point in time or during those  
6 two occasions?

7 Q. During the two occasions we are  
8 talking about.

9 A. There is a field on the screen where  
10 you can input the seed phrase.

11 Q. Instead of entering the key that Arie  
12 and Lubin had?

13 A. No. Instead of entering the wallet  
14 file.

15 Q. So all you have to do using the seed  
16 phrase in 2016, I will ask the question again.  
17 All you have to do to access the wallet in 2016  
18 was enter the seed phrase?

19 MR. POSTRYGACZ: Are you asking a  
20 question?

21 Q. Correct?

22 A. Correct.

23 Q. So what is the point of setting up  
24 the system whereby you held the wallet file and  
25 Joe and Arie held the password if that actually

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2 was not necessary?

3 A. It is a failsafe because on those two  
4 occasions, it was necessary to enter the seed  
5 phrase because Arie's password did not work.

6 Q. At any time did you -- at any time  
7 other and these two times with Arie, did you use  
8 the seed phrase to access the wallet?

9 A. No. With Arie, no.

10 Q. What about without Arie? Did there  
11 come any time where you on your own used the seed  
12 phrase to access the wallet?

13 A. With Tokit.IO.

14 Q. When was the first time?

15 A. Late 2018.

16 Q. Why did you do that?

17 A. To fund company business.

18 Q. Did you tell anybody that you were  
19 accessing the wallet using the seed phrase on  
20 your own?

21 MR. POSTRYGACZ: Objection. I mean  
22 this is going outside the scope of your  
23 application as well as the judge's order.  
24 We're here to discuss the cold wallet  
25 device and issues related to it, and that



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2 related to his getting consent to spend or  
3 access the code wallet. So we're going to  
4 instruct-- well, I'm going to instruct my  
5 client not to answer that question.

6 Q. Are you going to take your counsel's  
7 instruction?

8 MR. CONDZAL: I just want to add to  
9 the record that reading from I think it's  
10 docket number 76, page 4 and page 5, there  
11 are six specific lines of inquiry that are  
12 spelled out on page 5. It's referred to  
13 as narrow issues, and you have identified  
14 the devices. You have identified the  
15 locations. We've explained how and when  
16 it was moved. So that's three of the six.

17 So it would seem that we would be  
18 getting into the section about paper  
19 wallets.

20 I would also note that in this  
21 document there's nothing about access or  
22 the witness's access, and I think, in all  
23 fairness, we've been good enough to allow  
24 this to go past where it should have  
25 probably gone, and I'm going to note that

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2 for the record and ask you, Counsel, with  
3 all respect, to stick to the lines of  
4 inquiry that you have outlined.

5 MR. SAUTER: I respectfully disagree  
6 that this question is anywhere outside the  
7 scope of what we have been authorized to  
8 ask about, and in fact based on the  
9 testimony today, it's becoming  
10 increasingly unclear how Mr. LeBeau has  
11 been able to access the cold wallet and  
12 whether he's still able to, and I think it  
13 is absolutely appropriate for us to be  
14 able to probe that, and part of it, as we  
15 have learned today, seems to be his  
16 ability to access the cold wallet through  
17 Tokit.IO. So I am exploring his ability  
18 to use Tokit.IO unilaterally, which is  
19 certainly relevant to his ability to  
20 continue to use Tokit.IO to continue to  
21 access the cold storage wallet.

22 He has equivocated today about his  
23 ability to do that at different points in  
24 time, and I disagree that we are going  
25 anywhere beyond the permissible scope of

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2 inquiry.

3 MR. POSTRYGACZ: Counsel, honestly  
4 you are being disingenuous here. We know  
5 that the Ether is being held in a separate  
6 account by Kobre & Kim as escrow agent.  
7 The fact of whether or not he is able to  
8 access a wallet that does not have any of  
9 the crypto or the Ether is irrelevant, and  
10 again you're going beyond the scope of  
11 what you requested in your application and  
12 what the court ordered.

13 MR. CONDZAL: Specifically I just  
14 want to add to that. You say, identify  
15 all devices, identify location of such  
16 devices, explain how one cold wallet was  
17 moved from one device to another.

18 Access to the cold wallet on Tokit  
19 I'm pretty sure is not mentioned anywhere  
20 in your request, sir.

21 MR. SAUTER: Well, I can tell you we  
22 filed a consent order that Mr. LeBeau  
23 agreed to where he was supposed to deliver  
24 devices. He didn't deliver a device. So  
25 we are trying to understand why, and that

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2 is the purpose of this deposition.

3 MR. CONDZAL: We understand that, but  
4 the question is about devices, not access,  
5 not about the history of access, not  
6 about, you know, what happened in 2016.  
7 It's about devices, and then you've got  
8 about the paper wallet. It is pretty  
9 clear in your document, sir. It's your  
10 document. You wrote it, right? So you  
11 submitted it. This is what the court  
12 based its decision on.

13 It would seem to me in all fairness  
14 that, you know, and I'm not saying you  
15 can't go a sentence or two or a line of  
16 inquiry or two, but now you are full-on  
17 engaged in questions, and again, with all  
18 respect, I think that you have a  
19 fundamental misunderstanding on your side  
20 of the table about how these transactions  
21 occur.

22 So I think that it would be better  
23 well-suited to the purposes of this  
24 deposition that we stick to what you were  
25 permitted to inquire about. The limited

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2 inquiry.

3 MR. SAUTER: Again, the premise of  
4 the entire consent order was that we  
5 thought there was a device.

6 MR. CONDZAL: But that's not. That's  
7 what you bootstrapped. In fact, there is  
8 nothing in any of the documents prior to  
9 that. The whole supposition is that you  
10 are somehow inconvenienced by the fact  
11 that you have to reconfigure meaningless  
12 tokens. That's the premise. That's what  
13 is in your reply brief. That's the  
14 premise of this, that you have got X  
15 amount of tokens that need to be  
16 reconfigured, and that, if we had some  
17 device, you wouldn't have to go through  
18 that process.

19 Effectively you're complaining about  
20 having to combine PDFs. So the idea here  
21 is we're here, and we're ready to  
22 continue, and we want you to continue.  
23 Continue on the line of inquiry, sir,  
24 because there is nothing, you know, the  
25 device, you know, there is no dispute

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2 Ether is in your account, and there is no  
3 dispute that Ether was turned over, and  
4 you have made allegations about so-called  
5 digital assets, quote unquote, that might  
6 be contained on the device. That is the  
7 extent of your paper, sir.

8 So here you have effectively a  
9 laundry list of topics, and we are  
10 respectfully requesting that you stick to  
11 this laundry list to the extent possible.

12 MR. SAUTER: With respect, I don't  
13 know what most of what you just said  
14 means. Our request is motivated by the  
15 apparent fact, which this deposition has  
16 mostly confirmed, that Mr. LeBeau retains  
17 an ability to access the cold wallet. It  
18 is true that the Ethereum has been sent  
19 off of the cold wallet to the escrow  
20 agent's account, but there remains other  
21 assets on that address, which is the  
22 primary motivation for our attempts to get  
23 discovery and satisfaction that Mr. LeBeau  
24 does not still have the ability to access  
25 those in violation of the consent order.

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2 MR. POSTRYGACZ: That's not what your  
3 application states, and that's not a  
4 correct recital of what has happened. We  
5 are not going to allow, or I'm not going  
6 to allow my client to answer any questions  
7 that go outside the scope of what you  
8 requested and the court ordered.

9 MR. CONDZAL: And 99 percent of what  
10 you have obtained in testimony is calling  
11 for speculation. You haven't defined, and  
12 if you would be good enough to define the  
13 assets that you're discussing.

14 MR. POSTRYGACZ: I thought that we  
15 went through this during that argument  
16 when you tried to insinuate to the judge  
17 that our client still had access to the  
18 Ether, and then it was clarified that it  
19 was actually in your possession. It's  
20 clear here what you were going after, and  
21 what the judge is allowing is the fact  
22 that there was language that included  
23 power cords and cables that would raise  
24 some questions with possibly what was  
25 provided to the escrow agent, but all

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2 these other questions they have no  
3 relevance. At least, they're outside the  
4 scope of what has been asked for and  
5 ordered, whether or not they have  
6 relevance to the overall fight we're  
7 fighting, but that's not why we are here  
8 today.

9 MR. SAUTER: Well--

10 MR. CONDZAL: The question was what  
11 else might be on the device, not whether  
12 my client or Mr. LeBeau has access to a  
13 cold wallet, in theory, if some website  
14 worked or could be brought up to work.  
15 That's not the inquiry.

16 MR. SAUTER: Look, you're obstructing  
17 my deposition at this point. Call the  
18 judge if you want. Stop talking over me.  
19 The purpose of this deposition is to  
20 explore Mr. LeBeau's access to the cold  
21 wallet. We are learning it's more than  
22 through a device. It's through a variety  
23 of means. I will ask questions about it,  
24 and, if you obstruct the deposition, if  
25 you instruct him not to answer, then we



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2 can just talk to the judge about it.

3 MR. POSTRYGACZ: I suggest you give  
4 the judge a call, because, again, it's not  
5 about his access. It was related to  
6 language that was included in the  
7 agreement, and that's why we are here  
8 today. It's not about his access. Your  
9 case, the underlying action has nothing to  
10 do with access, and you're just trying to  
11 go after our client for information that's  
12 outside the scope of what was ordered.

13 So call the judge, because otherwise  
14 we have instructed, or I've instructed my  
15 client not to answer any questions that go  
16 beyond that scope, including the last one  
17 that you just asked.

18 MR. SAUTER: About his ability to  
19 access Tokit.IO

20 MR. POSTRYGACZ: Whatever the last  
21 question was.

22 MR. CONDZAL: You asked the last  
23 question five times, sir. I counted.

24 MR. SAUTER: We've been talking so  
25 long I can't remember what the last

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2 question is. I'm trying to find it.

3 MR. POSTRYGACZ: I am sure the court  
4 reporter can find it.

5 Q. Let's fast forward to January 25,  
6 2022. Pursuant to a court order, you through  
7 your counsel delivered certain information to the  
8 escrow agent, correct?

9 A. Correct.

10 Q. What information did you deliver?

11 A. I delivered Ether to the escrow  
12 agent.

13 Q. You didn't actually deliver Ether.  
14 It wasn't tangible. What did you tangibly  
15 deliver to the escrow agent?

16 A. Private key.

17 Q. What else?

18 A. I delivered, what was delivered was  
19 the company's wallet address private key, and  
20 Joseph Lubin, the private key to Joseph Lubin's  
21 wallet address that contained his Singles tokens.

22 Q. Focusing on the wallet address  
23 private key, explain to me how that key was  
24 generated?

25 MR. POSTRYGACZ: Objection. Asked

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2 and answered.

3 But go ahead.

4 A. The private key was exported from  
5 Tokit.IO and printed on a piece of paper.

6 Q. When did Tokit.IO become the platform  
7 for the cold storage wallet?

8 A. It never became a platform for cold  
9 storage. It was only an access point to the  
10 wallet address.

11 Q. When was the first time it was used  
12 as an access point for that address?

13 A. Late 2018.

14 Q. Why was it used to access the wallet  
15 in late 2018?

16 A. It was the only means by which at  
17 that time the wallet address could be accessed.

18 Q. What was the procedure to access the  
19 cold storage wallet through Tokit.IO

20 A. The procedure to access the wallet  
21 address was to input the seed phrase into  
22 Tokit.IO.

23 Q. When is the last time that Icebox was  
24 used to access the cold storage wallet?

25 A. In 2019.

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2 Q. From then until when Tokit was used,  
3 was there anything else in between to access the  
4 cold storage wallet?

5 A. From when?

6 Q. From between when Icebox was used to  
7 when Tokit.IO was used, were there any other  
8 platforms that were used to access the cold  
9 storage wallet?

10 A. No. Only Icebox and Tokit.IO were  
11 the only softwares that were ever used.

12 Q. What about after, did there come a  
13 time after Tokit.IO where another software was  
14 used?

15 A. There was never any software used to  
16 access the wallet address for the purpose of  
17 transferring any Ether or cryptocurrency.

18 Q. The private key that was delivered to  
19 the escrow agent in January 2022, when was that  
20 private key exported?

21 A. In 2020.

22 Q. Can you describe how it was exported?

23 A. There was a field on Tokit where you  
24 could request to export your private key and it  
25 would show you.

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2 Q. And from there, did you save it  
3 somewhere?

4 A. No. I printed it on a piece of  
5 paper.

6 Q. Directly from the display?

7 A. No. I copied and pasted it to a  
8 notepad and then printed it from there.

9 Q. What happened to the notepad on which  
10 it was pasted?

11 A. It was never saved. It was erased,  
12 deleted. Can you delete something that was never  
13 saved? I have no idea.

14 Q. You didn't know how to affirmatively  
15 save that notepad on your computer. Is that your  
16 testimony?

17 A. That's correct. I only printed out,  
18 the only copy of the private key that exists is  
19 the piece of paper that I printed.

20 Q. That was in 2020?

21 A. Yes.

22 Q. Do you remember what month?

23 A. I do not.

24 Q. Where was it stored at that time  
25 after it was printed?

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2 A. It was stored in a safe in my  
3 apartment.

4 Q. Was that the same safe that held the  
5 USB keys we discussed earlier?

6 A. It was.

7 Q. Was it ever removed from that safe  
8 after it was first put there?

9 A. Only to deliver it to you, to the  
10 escrow agent.

11 Q. Was there anybody else who ever had  
12 access to that private key?

13 A. No. It was kept in a safe that my  
14 wife could access, but I had sealed it in an  
15 envelope that was never broken until the day that  
16 I delivered it to the escrow agent.

17 Q. Why did you print the private key if  
18 you had already memorized the seed phrase?

19 A. Because the seed phrase wasn't  
20 working anymore because Tokit.IO was failing. So  
21 if Tokit.IO doesn't work, there is no way to  
22 access the wallet address with the seed. The  
23 failsafe, the number one thing that you need to  
24 access that, the only thing you need to access  
25 that wallet address is the private key.

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Q. So when you sent Ether to the escrow agent, can you describe step by step how you accomplished that?

A. I went to Tokit.IO, input the seed and sent the Ether to the wallet address that I was given.

Q. What seed did you use?

A. The 12-word seed.

Q. The one that you memorized?

A. Yes.

Q. In May 2021, there were discussions about a multi-signature wallet? Do you recall that?

A. Yes.

Q. Was that through the platform called NONCES?

A. Yes.

Q. Can you explain to me what was happening with that?

A. I had been lobbying to reinstate a multi-sig function around the wallet address for quite some time, and that was one of the efforts to reinstate multi-sig permissions around the wallet address.

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2 Q. How would it work or how was it  
3 intended to work?

4 A. At that time it was intended that I,  
5 the resident director of the GmbH, Patrick  
6 Allenspach and our financial controller, Ed  
7 Greenwood, would all have multi-signature  
8 permissions for a brand new wallet address that  
9 would hold the company's Ether from the original  
10 wallet address.

11 Q. So was the intention that the  
12 multi-signature would apply to a different wallet  
13 address, not the original address?

14 A. Correct.

15 Q. Was that ever implemented?

16 A. No.

17 Q. Was it implemented in part?

18 A. We began, we being myself and Patrick  
19 and Ed, we began the process of it. We began  
20 testing it, and at some point in time due to some  
21 issues with the software, the NONCES software  
22 itself, we stopped testing. So I could alert the  
23 developers of the NONCES software of the issues  
24 we were having. That was the end.

25 MR. CONDZAL: Counsel, can we take



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2 five?

3 MR. SAUTER: We can take five. I'm  
4 almost at a breaking point. We can take  
5 lunch now if you want, or five. Do you  
6 want to take lunch now?

7 MR. CONDZAL: Well, it depends on how  
8 much longer you're going to go. If you've  
9 got an hour left, I would rather just go  
10 with the hour and take five.

11 MR. SAUTER: That's fine. Okay. I  
12 don't know how much more time I have. We  
13 can take five.

14 MR. CONDZAL: Why don't we just take  
15 five. Is that okay, Counsel?

16 THE VIDEOGRAPHER: The time now is 12  
17 p.m. We're going off the record. This  
18 ends media label 2.

19 (Recess taken)

20 THE VIDEOGRAPHER: The time now is  
21 12:18 p.m. We are back on the record.  
22 This begins media label 3.

23 BY MR. SAUTER:

24 Q. Mr. LeBeau, we discussed earlier in  
25 the morning how the Mac Mini interface was

1 ZACHARY LeBEAU

2 destroyed. Can you explain the circumstances in  
3 which the USB keys that were held in the TD Bank  
4 safe deposit box and in a safe in your apartment  
5 were destroyed?

6 A. After printing the private key, I  
7 destroyed the USB hard drives.

8 Q. Did you destroy all of them together  
9 or at different times?

10 A. All of the ones that Kim and I had in  
11 our control at the same time.

12 Q. So all four of them?

13 A. Yes.

14 Q. How were they destroyed?

15 A. Screwdriver and hammer and pliers  
16 used to pry open the USB opening and then the  
17 actual components itself smashed into pieces.

18 Q. You physically destroyed all four of  
19 the devices?

20 A. I did.

21 Q. When was that?

22 A. In 2020.

23 Q. Do you recall which month?

24 A. I don't recall which month.

25 Q. The seed phrase that was written on

1 ZACHARY LeBEAU

2 paper, how was that destroyed?

3 A. At the same time with fire.

4 Q. Mr. LeBeau, I am going to show you a  
5 document that I will mark as Exhibit 4.

6 (Plaintiff's Exhibit 4, e-mail from  
7 Mr. LeBeau dated August 19, 2018, was so  
8 marked for identification, as of this  
9 date.)

10 Q. Mr. LeBeau, I will give you a moment  
11 to look over this if you want it, but my first  
12 question for you is whether you recognize it?

13 A. Yes, I do.

14 Q. What is it?

15 A. It is the e-mail I sent to several  
16 people including the founders of SingularDTV with  
17 the subject of founders meeting and action items.

18 Q. The date that is written at the top  
19 of this is August 19, 2018. Do you have any  
20 reason to think that is not the date?

21 A. I have no reason to think that is not  
22 the date.

23 Q. Halfway down the first page, there is  
24 a subheading that says The Cold Wallet. Do you  
25 see that?

1 ZACHARY LeBEAU

2 A. Yes.

3 Q. It says, "The cold wallet ETH is  
4 secure. In order to access the cold wallet ETH,  
5 the interface needs to be restored. It was  
6 agreed by our founders that there is no need to  
7 restore the interface at this time." Do you see  
8 that?

9 A. Yes.

10 Q. What was the interface that needed to  
11 be restored?

12 A. The Mac Mini.

13 Q. And why did it need to be restored?

14 A. Why did it or did not?

15 Q. Did it.

16 A. Well, it was agreed that there was no  
17 need to restore it at that time.

18 Q. But, okay. The Mac Mini had been  
19 destroyed at this time?

20 A. Yes.

21 Q. So there was a need to restore an  
22 interface in order to use the cold wallet,  
23 correct?

24 A. In order to access the cold wallet  
25 Ether.

1 ZACHARY LeBEAU

2 Q. Was any decision made at this point  
3 about what interface would be used to replace the  
4 Mac Mini, if at all?

5 A. I don't recall.

6 Q. I will show you another document now  
7 and I will mark this Exhibit 5.

8 (Plaintiff's Exhibit 5, e-mail chain  
9 titled Founders Meeting and Action Item,  
10 was so marked for identification, as of  
11 this date.)

12 Q. You can take a look to familiarize  
13 yourself with this document. You can take a look  
14 at the whole document. My question for you is  
15 going to be in the middle of page ZL 102. Do you  
16 see a subheading that says Cold Wallet?

17 A. Yes.

18 Q. In the first line it says, "There are  
19 probably only about three people of the hundred  
20 or so connected to SingularDTV that can reproduce  
21 the cold wallet interface, Joe, Milad and  
22 myself."

23 Do you see that?

24 A. Yes.

25 Q. Who is Milad?

1 ZACHARY LeBEAU

2 A. Milad Mostavi was a Consensus  
3 developer.

4 Q. Joe is Joe Lubin?

5 A. Joe is Joseph Lubin.

6 Q. Why did you think that you, Milad and  
7 Joe Lubin were the only people that could  
8 reproduce the cold wallet interface?

9 A. I thought we had the technical  
10 capability to reproduce the cold wallet  
11 interface.

12 Q. When you say reproduce the cold  
13 wallet interface, what did you have in mind?

14 A. The Mac Mini interface and Icebox  
15 software.

16 Q. Ultimately that was never done,  
17 correct?

18 A. Correct.

19 Q. Eventually Tokit.IO was used to  
20 interface with the wallet, correct?

21 A. Correct.

22 Q. Did Milad have any role in the  
23 decision to use Tokit.IO as opposed to some other  
24 interface?

25 A. He recommended using Tokit.IO.

1 ZACHARY LeBEAU

2 Q. Do you remember when he did that?

3 A. Late 2018.

4 Q. Were there discussions about the  
5 decision to use Tokit.IO as the replacement  
6 interface?

7 A. I don't recall.

8 Q. Do you recall who you would have  
9 discussed that with?

10 A. I recall discussions about accessing  
11 the wallet address with all the founders and  
12 members of the executive team.

13 Q. Do you recall those discussions being  
14 verbal or in writing?

15 A. Verbal.

16 Q. Do you recall having any e-mail  
17 correspondence about that?

18 A. No.

19 Q. Where do you recall those discussions  
20 taking place?

21 A. At the SingularDTV office on  
22 40 Fulton Street downtown New York City.

23 Q. There's two sentences later, you  
24 wrote, "The history of hackings in ETH stolen  
25 from team members in Zurich is problematic and

1 ZACHARY LeBEAU

2 represents a need for further education and  
3 training re block chain wallet key management  
4 practices."

5 What was the history of hacking that  
6 you are referring to?

7 A. I recall that a couple of the  
8 employees from the Switzerland office had  
9 suffered hacks that resulted in the loss of  
10 Ether.

11 Q. Was that company Ether?

12 A. No.

13 Q. One more question for you on this  
14 topic. If you can turn back to your declaration,  
15 which I believe was Exhibit 2.

16 MR. POSTRYGACZ: No, it's 3.

17 MR. SAUTER: Excuse me. Exhibit 3.

18 Q. Turn to paragraph 38. The first  
19 sentence says, "To secure the wallet, we were  
20 provided with a system-generated 12-word seed  
21 phrase, a wallet file and a password. Jackson  
22 and I were given the wallet file on a hard  
23 drive."

24 My question for you is what was that  
25 hard drive?



1 ZACHARY LeBEAU

2 A. The USB hard drive.

3 Q. The same USB that we have been  
4 speaking about?

5 A. Correct.

6 MR. POSTRYGACZ: I can't hear you.  
7 You're tending to get lower at the end of  
8 a question. I'm having a difficult time  
9 hearing you.

10 MR. SAUTER: Well, if Mr. LeBeau has  
11 a difficult time hearing me, he can let me  
12 know, but he answered that question.

13 MR. POSTRYGACZ: Alright, but you  
14 keep your voice up a little bit. I'm  
15 letting you know I'm having a hard time  
16 hearing you. I would think that you would  
17 want the people, especially counsel, in  
18 the room to be able to hear your  
19 questions.

20 MS. PERLMAN: You have your realtime  
21 as well.

22 MR. POSTRYGACZ: He is reading it,  
23 and I like to hear the question.

24 Q. Mr. LeBeau, I am showing you Exhibit  
25 6.

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2 (Plaintiff's Exhibit 6, Responses and  
3 objections in response to document  
4 requests, was so marked for  
5 identification, as of this date.)

6 Q. Do you recognize this document, Mr.  
7 LeBeau?

8 A. I don't see a date on it.

9 MR. POSTRYGACZ: It should be the  
10 last page.

11 A. I don't recall this document, but I  
12 understand what it is.

13 Q. Do you understand that it is  
14 responses and objections that were submitted on  
15 your behalf in response to document requests that  
16 were sent by my client to you?

17 A. I understand that.

18 Q. Did you have an opportunity to review  
19 this document before it was served on  
20 SingularDTV?

21 A. I don't recall.

22 Q. You don't recall reviewing it?

23 MR. POSTRYGACZ: Objection. That is  
24 not what he testified to. You asked if he  
25 recalled having an opportunity and he said

1 ZACHARY LeBEAU

2 he doesn't recall.

3 Q. Do you recall reviewing it?

4 A. I don't recall.

5 Q. Do you recall that any documents were  
6 provided to SingularDTV at the same time as these  
7 responses and objections were served?

8 A. I don't recall.

9 Q. I will represent to you, Mr. LeBeau,  
10 that Exhibit 2 that is in front of you and that  
11 we have already discussed, you can take a look at  
12 it. That document in front of you that we  
13 previously marked as Exhibit 2 was the only  
14 document that was produced to me along with this  
15 document. Do you understand that Exhibit 2 was  
16 produced to me as part of this litigation in  
17 response to the document request that SingularDTV  
18 sent?

19 A. I do.

20 Q. Do you know which document requests  
21 Exhibit 2 was produced in response to?

22 MR. POSTRYGACZ: Objection.

23 Only if you know.

24 A. I don't know.

25 Q. You didn't make that determination?

1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Are you asking a  
3 question?

4 A. I don't understand the question.  
5 What determination?

6 Q. Did you make a determination about --  
7 did you make a determination to produce that  
8 particular document that I have marked as Exhibit  
9 2?

10 MR. POSTRYGACZ: Objection.

11 A. I produced this document.

12 Q. Did you make a determination as to  
13 which requests it was responsive to?

14 MR. POSTRYGACZ: Objection.

15 A. Yes.

16 Q. Which requests?

17 A. I was ordered by the judge to do a  
18 search for e-mail and files that had to do with  
19 the destruction of the cold wallet.

20 MR. CONDZAL: So the record is clear,  
21 this is the first demand, not the second.  
22 Okay?

23 THE WITNESS: Understood.

24 MR. SAUTER: This document responses.

25 MR. POSTRYGACZ: Which document

1 ZACHARY LeBEAU

2 responses? You are looking at a piece of  
3 paper.

4 MR. SAUTER: Defendants' responses  
5 and objections to the plaintiff's document  
6 requests which we have marked as an  
7 exhibit in front of the witness.

8 Q. At the time that you served those  
9 responses and objections to SingularDTV on  
10 April 20, 2022, at that time had you conducted a  
11 search for documents?

12 A. Yes.

13 Q. What search did you conduct?

14 A. A search of e-mail and files.

15 Q. How did you conduct that search?

16 A. I searched e-mail using keywords and  
17 searched for files using keywords.

18 Q. You later filed a certification with  
19 the court describing a search that you conducted,  
20 correct? Do you remember that?

21 A. Yes.

22 Q. Is that the same search you had  
23 conducted prior to April 20, 2022 or a different  
24 search?

25 MR. CONDZAL: Objection. Why don't

1 ZACHARY LeBEAU

2 you show him the document that you are  
3 talking about just do reference him?

4 Q. Do you remember?

5 A. I performed two searches.

6 Q. What were the search terms that you  
7 used the first time?

8 A. I don't recall all the search terms I  
9 used.

10 Q. Was this document that is in front of  
11 you as Exhibit 2, was that the only document that  
12 you identified after your first search or were  
13 there other documents that you identified?

14 A. This was the only document identified  
15 in my first search.

16 Q. Would you be able to recreate the  
17 search that you ran to identify that single  
18 document?

19 MR. POSTRYGACZ: Objection.

20 A. I don't recall exactly the keywords I  
21 used in this first search.

22 Q. Is there anything that would refresh  
23 your recollection about what search terms you  
24 used?

25 A. No.

1 ZACHARY LeBEAU

2 Q. What e-mail accounts did you search  
3 in identifying that document?

4 MR. POSTRYGACZ: What time?

5 MR. SAUTER: The first search that he  
6 conducted.

7 MR. POSTRYGACZ: Thank you.

8 A. My e-mail account  
9 ZacharyLeBeau@Gmail.com, and then whatever e-mail  
10 that I received in that account from others.

11 Q. Did you search anywhere else besides  
12 that e-mail account?

13 A. No.

14 Q. How long did you take to search?

15 A. Several hours.

16 Q. Was it in one day?

17 A. Yes.

18 Q. How many documents, approximately,  
19 did you identify?

20 MR. POSTRYGACZ: Objection. Asked  
21 and answered.

22 A. This is the only document I  
23 identified.

24 Q. When you identified that -- strike  
25 that.

1 ZACHARY LeBEAU

2 Why did you decide to search using  
3 search terms?

4 MR. POSTRYGACZ: Objection.

5 A. Can you repeat the question.

6 Q. Why did you decide to conduct your  
7 search with search terms?

8 A. I'm not aware of how else I would  
9 conduct a search.

10 Q. Well, did it surprise you in trying  
11 to respond to ten requests about the cold wallet  
12 that you only found one document?

13 MR. POSTRYGACZ: Objection.

14 A. No.

15 Q. Did you think at the time there might  
16 be other documents in your e-mail account?

17 A. No.

18 Q. It never occurred to you?

19 MR. POSTRYGACZ: Objection.

20 MR. CONDZAL: Objection.

21 Q. You mentioned you conducted a second  
22 search, correct?

23 A. Yes.

24 Q. Why did you conduct that second  
25 search?



1 ZACHARY LeBEAU

2 A. I was instructed to by the judge.

3 Q. How did you conduct that search?

4 A. I approached it in a much more -- I  
5 approached it in a different way.

6 Q. How was the way different?

7 A. Wrote out all the keywords, recorded  
8 those keywords, all the e-mails searched,  
9 recorded those.

10 Q. How much time did you spend searching  
11 for documents the second time?

12 A. Two or three full working days, at  
13 least eight hours a day.

14 Q. Approximately 20 hours you spent the  
15 second time?

16 A. Possibly.

17 Q. Through that effort, you identified  
18 about 56 documents or so, correct?

19 A. I don't recall.

20 Q. Do you recall it being more than 50  
21 documents?

22 A. No, I don't recall.

23 Q. You don't recall at all how many  
24 documents you identified?

25 A. I do not recall.

1 ZACHARY LeBEAU

2 Q. Did you produce all of the documents  
3 that you identified?

4 A. Yes.

5 Q. Did you review documents for  
6 responsiveness to the document requests?

7 MR. POSTRYGACZ: Objection.

8 A. I don't understand what that means.

9 Q. I will rephrase it. When you ran  
10 your search terms, how many e-mails did you  
11 identify in total through those search terms?

12 A. Every e-mail that I identified I  
13 included.

14 Q. Every e-mail that hit on the search  
15 terms that you ran, you produced to us? Is that  
16 your testimony?

17 A. No.

18 Q. So did you review the universe of  
19 documents that you found for responsiveness to  
20 the document requests?

21 MR. POSTRYGACZ: Objection.

22 A. When I searched and when e-mails  
23 would come up, I would look at those e-mails.

24 Q. How did you determine which ones to  
25 produce or not produce?

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2 MR. POSTRYGACZ: Objection.

3 A. I had a list of parameters that the  
4 judge requested and I supplied the documents that  
5 the judge required.

6 Q. How did you determine if a document  
7 was responsive to that parameter or not?

8 MR. POSTRYGACZ: Objection.

9 A. Well, for example, I remember a case  
10 where an instance where when I searched for cold  
11 wallet, a script, a screenplay came up from some  
12 entertainment company that sent me a script and  
13 it had the word "cold wallet" in it, so I was  
14 obviously not going to include that.

15 Q. Were there any documents that you had  
16 questions about whether they should be produced  
17 or not?

18 A. No.

19 Q. When you searched, did you search for  
20 the term "cold storage"?

21 A. Yes.

22 Q. Is that in the certification that you  
23 filed, which I am providing to you as Exhibit 7.

24 (Plaintiff's Exhibit 7,  
25 Certification, was so marked for

1 ZACHARY LeBEAU

2 identification, as of this date.)

3 A. It does not appear to be, but I am  
4 100 percent certain I searched cold storage.

5 Q. So how did you prepare this  
6 certification to the court?

7 MR. POSTRYGACZ: Objection.

8 A. Wrote down the e-mails that I  
9 searched and the keywords that I searched.

10 Q. Is there any record that you have  
11 that you actually did search the term "cold  
12 storage"?

13 A. No.

14 Q. Is there a reason why you would have  
15 searched that term, but it doesn't appear in this  
16 document?

17 MR. POSTRYGACZ: Objection.

18 A. I do not know why it does not appear  
19 in this document.

20 Q. The terms -- after each request, Mr.  
21 LeBeau, one of the fields says e-mail word  
22 searches. Do you see that? You can start with  
23 request number 1.

24 A. Yes.

25 Q. On page 2 at the top it says e-mail

1 ZACHARY LeBEAU

2 word searches. Do you see that?

3 A. Yes.

4 Q. And there are words in quotation  
5 marks. Do you see that?

6 A. Yes.

7 Q. Were you searching for those exact  
8 terms? Is that how the search worked?

9 A. I was searching for these terms.

10 Q. Two of them that I see kind of in the  
11 middle of that paragraph, one says seed phrases  
12 and passwords. Do you see that? There's an S at  
13 the end of the plural nouns.

14 A. Yes.

15 Q. Do you know if your search would have  
16 captured the word "password" if it's not plural?

17 A. It does.

18 Q. There is a phrase in there towards  
19 the end, "necessary to transact in digital assets  
20 held at the cold wallet address." Why did you  
21 pick that as a search term?

22 MR. POSTRYGACZ: Objection.

23 A. These were taken-- I took that from a  
24 previous document thinking that it would be a  
25 good idea to search for that.

1 ZACHARY LeBEAU

2 Q. Okay. It is a pretty specific  
3 phrase.

4 MR. CONDZAL: You should object to  
5 all of these on privilege and  
6 confidentiality. This is obviously  
7 attorney-client work client privilege, and  
8 I notice that you say you wrote, he wrote.  
9 The fact of the matter is the lawyers  
10 write this, and the client reviews it for  
11 accuracy. He doesn't write anything. We  
12 all know that, and you're going, we have  
13 let you go actually I think a little bit  
14 past where you should have gone in terms  
15 of where the client privilege, but, you  
16 know, all of these are taken from your  
17 demand. Your own definition. I haven't  
18 had a chance, but I will certainly review  
19 to see if cold storage is contained in  
20 your demands, because if it were, it would  
21 have been searched.

22 MR. SAUTER: We should probably  
23 confer about this, but do you even  
24 represent Mr. LeBeau?

25 MR. POSTRYGACZ: I assert the same

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2 privilege. I assert the privilege. Any  
3 of these questions relate to  
4 attorney-client privilege, and he will be  
5 instructed not to answer.

6 MR. SAUTER: That is totally fine. I  
7 don't know how this document was prepared,  
8 so I guess that is your job to object. I  
9 have no idea how these were determined,  
10 but, if you're going to assert privilege,  
11 that is your prerogative.

12 MR. POSTRYGACZ: That's correct.

13 MR. SAUTER: Okay. We should  
14 probably meet and confer about some of  
15 these if you are going to instruct him not  
16 to answer these questions.

17 MR. POSTRYGACZ: That's fine.

18 MR. CONDZAL: We are more than  
19 willing to.

20 Q. Following each of the responses to  
21 the requests in your declaration, it says that  
22 you searched, you conducted searches of my e-mail  
23 accounts and computer files. Which e-mail  
24 accounts were searched?

25 A. I only have one e-mail account.

1 ZACHARY LeBEAU

2 Q. Which account is that?

3 A. ZachLeBeau@Gmail.com.

4 Q. You don't use a SingularDTV account?

5 A. No.

6 Q. Have you ever?

7 A. Yes.

8 Q. Do you still have access to that  
9 account?

10 A. No.

11 Q. Why not?

12 MR. POSTRYGACZ: Objection.

13 A. My SingularDTV e-mail address ended  
14 in 2018. I had everything from that e-mail  
15 address automatically forwarded to my  
16 ZachLeBeau@Gmail.com account, so anything that  
17 came in from SingularDTV for that e-mail address  
18 was automatically sent to ZachLeBeau@Gmail.com,  
19 so I would have record of it.

20 Q. Is that the same for breaker e-mail  
21 address?

22 A. That's correct.

23 Q. Which computer files did you search?

24 A. All the computer files I have in my  
25 possession.



1 ZACHARY LeBEAU

2 Q. Where are those computer files  
3 stored?

4 MR. POSTRYGACZ: Objection.

5 A. On my computer at my home at my  
6 apartment.

7 Q. Which computer is that?

8 A. It is a laptop computer.

9 Q. Is it a Mac or PC?

10 MR. POSTRYGACZ: Objection. What is  
11 the relevance?

12 MR. SAUTER: I want to understand how  
13 the search was conducted. I think it's  
14 absolutely appropriate.

15 MR. POSTRYGACZ: It is appropriate to  
16 know which computer he used when searching  
17 e-mail addresses. Can he use your  
18 computer if he wants? There is no basis  
19 in your harassing my client.

20 I instruct you not to answer that  
21 question.

22 MR. SAUTER: He says that he reviewed  
23 computer files. I am trying to understand  
24 what computer files, which computers they  
25 are on. There is nothing wrong with this

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2 question.

3 MR. POSTRYGACZ: And he testified  
4 that he reviewed the files on his  
5 computer. You don't have to know a  
6 specific computer for him to have reviewed  
7 it.

8 Q. How many computers did you review?

9 A. All of my computers that I own.

10 Q. How many do you own?

11 A. I own three.

12 Q. Below that, you have e-mail names  
13 searched. Does that mean that your search was  
14 limited to e-mails containing those names?

15 A. What I searched, for example, was Kim  
16 Jackson and then I searched a completely  
17 different search Kim@SingularDTV.com. So I did  
18 not search at the same time Kim Jackson, Kim at  
19 SingularDTV.com.

20 Q. Okay. If I understand you conducted  
21 a broad search for Kim Jackson and stopped. Is  
22 that accurate?

23 A. I conducted a search where I put the  
24 name Kim Jackson in the search field and that was  
25 one search, and then I, for example, put in

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2 Kim@SingularDTV.com as another search. I did not  
3 put them together in the same search.

4 Q. Then after you searched for Kim  
5 Jackson, for example, did you review all of those  
6 e-mails or did you then limit it to the search  
7 terms following each request?

8 A. I reviewed all of those e-mails.

9 Q. Can I ask why did you run different  
10 searches for each request as opposed to just one  
11 search and then review them for responsiveness?

12 MR. POSTRYGACZ: Objection,  
13 attorney-client privilege.

14 Don't answer.

15 MR. SAUTER: So for the e-mail  
16 search, by the way, you can assert  
17 privilege if you think you can, but for  
18 the record, the first paragraph of this  
19 declaration says that Mr. LeBeau  
20 personally conducted the following  
21 searches, so I think it is absolutely --

22 MR. POSTRYGACZ: It doesn't say that  
23 he didn't do so without the advice,  
24 Counsel, in print or anything else from  
25 counsel.

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2 MR. SAUTER: But he has disclosed  
3 this declaration and he has waived  
4 whatever privilege that is waivable.

5 MR. POSTRYGACZ: There is nothing  
6 waivable.

7 MR. CONDZAL: Where does it say that  
8 he waived a privilege in writing?

9 MR. SAUTER: He submitted a  
10 declaration describing what he did and you  
11 are trying to prevent me from asking him  
12 what he did.

13 MR. CONDZAL: The questions you are  
14 asking implicate his communications with  
15 his counsel. Clearly implicate his  
16 communications with his counsel. If you  
17 want to ask him did you put this into your  
18 search engine, did you put this into your  
19 search engine, clearly that would be an  
20 appropriate question.

21 MR. SAUTER: And he answered those.

22 MR. CONDZAL: And he did, if you want  
23 to go down that path. But if you ask  
24 where did you derive this information or  
25 how did you come up with this information

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2 and that implicates attorney-client and  
3 attorney work product, based off your  
4 documents, by the way, based off your  
5 demand and based off your definitions,  
6 right, then I think it is clearly, it  
7 would be appropriate to assert the  
8 privilege, but nowhere in this document  
9 does it say that he waives the privilege.  
10 I think that is --

11 MR. SAUTER: You keep using the word  
12 "clearly." Nothing is clear about what he  
13 did or what he was instructed to do.

14 MR. CONDZAL: Are you kidding. You  
15 have a seven-page effectively Jackson  
16 affidavit, the likes of which I have never  
17 seen before in New York practice, and it  
18 specifies specifically item by item in  
19 response to the court's order of what  
20 information he needs to provide, and you  
21 out of the hat pull out the one phrase he  
22 didn't, might have not searched or might  
23 not have written down here more  
24 accurately, and oh, you didn't search  
25 that, because it wasn't defined in your

1 ZACHARY LeBEAU

2 demand, and that's because none of your  
3 demands mention that.

4 So the fact is that when you are  
5 asking him about where this information  
6 derived, you are implicating  
7 attorney-client privilege and work  
8 product. So if you want to ask away about  
9 what specifically you did to search, that  
10 is one thing and that is fine enough.

11 MR. POSTRYGACZ: He has answered  
12 every question that does not implicate  
13 advice or input from counsel. You asked  
14 him how many computers, whether or not he  
15 inputted those search terms, and when you  
16 go beyond that to a place that is  
17 appropriate to invoke that privilege, we  
18 will --

19 MR. SAUTER: Are you telling me that  
20 lawyers chose those search terms or he  
21 chose the search terms in consultation  
22 with lawyers? Assert your privilege  
23 objection. But if he came up with those  
24 search terms, there is nothing privileged  
25 about that.

1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: I am asserting the  
3 privilege.

4 Q. You testified earlier, Mr. LeBeau,  
5 that you made a decision about whether a document  
6 was responsive to a request when you were making  
7 decisions about whether to produce it. My  
8 question is this. When you ran a set of  
9 searches, for example, request 1, am I correct  
10 you ran these e-mail word searches at the top of  
11 page 2 in order to try to identify documents  
12 responsive to request 1? Is that accurate?

13 A. Yes.

14 Q. And if I understood your testimony,  
15 that returned a set of documents that you then  
16 reviewed, is that correct?

17 A. Yes.

18 Q. Then you made a determination about  
19 whether those documents were responsive to  
20 request 1, is that accurate?

21 A. Yes.

22 Q. Did you then run a separate search  
23 for request number 2 for different words, the  
24 words that are down there in e-mail word searches  
25 underneath request 2?

1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Objection. Are you  
3 asking him if he actually conducted the  
4 searches indicated in number 2?

5 MR. SAUTER: I am asking if he  
6 conducted different searches for 1,  
7 different searches for 2, different  
8 searches for 3.

9 Q. Did you run different searches to try  
10 to identify documents for each request?

11 A. Yes.

12 Q. So if a document came up in request  
13 response to your search for request 2 and it was  
14 responsive actually to request 1, you wouldn't  
15 have produced that, right?

16 MR. POSTRYGACZ: Objection.

17 MR. CONDZAL: Objection.

18 A. Of course I would have produced it.

19 Q. Why did you run different searches  
20 for every request?

21 A. To be thorough.

22 Q. This is my point. A thorough search  
23 would have been to run the search terms and  
24 review them all for responsiveness. The way it  
25 appears.



1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Are you testifying?

3 MR. SAUTER: I am asking a question,  
4 Neil.

5 MR. POSTRYGACZ: Oh, really? It  
6 seemed to me like you were giving your  
7 opinion as to what a thorough search would  
8 be. That is how you started it. And  
9 quite honestly, I don't think anyone here  
10 is interested in that.

11 MR. CONDZAL: You have ten specific  
12 questions in your demand. You have  
13 definitions in your demand. They are very  
14 clear. If you take the definition and you  
15 take your demand and you cull it out, then  
16 the witness just testified that if he  
17 sound something, for example, in response  
18 to question 7 and it was responsive to  
19 question 1, he produced that as well.

20 MR. SAUTER: First of all, your  
21 objections are way off base. I don't know  
22 on what ground you are speaking about his  
23 production and his decision-making,  
24 because as far as I know, you don't even  
25 represent him.

1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Counsel can make  
3 objections for clients they don't  
4 represent if they are co-counsel. Where  
5 is it stated that that is not acceptable?  
6 Why don't you make sure that your  
7 questions don't invoke privilege. It is  
8 pretty simple.

9 MR. SAUTER: Second of all, if you  
10 seem to be --

11 MS. PERLMAN: You don't represent Mr.  
12 LeBeau, correct?

13 MR. SAUTER: If you are not  
14 representing Mr. LeBeau, I have a problem  
15 with the objections that are being lodged  
16 by Ms. Jackson's counsel. In fact, he  
17 referred to Ms. Jackson's declaration.

18 MR. POSTRYGACZ: That's fine. I  
19 reiterate any objections that I didn't  
20 make that co-counsel made.

21 MR. CONDZAL: Is there a question  
22 pending?

23 MR. SAUTER: No, we are still  
24 speaking on the record.

25 MR. CONDZAL: Let's take a break for

1 ZACHARY LeBEAU

2 a minute.

3 THE VIDEOGRAPHER: Going off the  
4 record at 1:02 p.m.

5 (Recess taken)

6 THE VIDEOGRAPHER: The time now is  
7 1:04 p.m. We are back on the record.

8 BY MR. SAUTER:

9 Q. Mr. LeBeau, did you include the word  
10 "Tokit.IO" as a search term?

11 A. I do not believe so.

12 Q. I am going to show you a document and  
13 mark this as Exhibit 8.

14 (Plaintiff's Exhibit 8, Exhibit A to  
15 motion, was so marked for identification,  
16 as of this date.)

17 Q. After you have a minute to look at  
18 it, please let me know if you recognize it.

19 MR. POSTRYGACZ: Is this part of  
20 another document?

21 MR. SAUTER: These are the document  
22 requests that he is supposed to be  
23 searching in response to, Neil.

24 MR. POSTRYGACZ: This is part of your  
25 production, right? It is just including

1 ZACHARY LeBEAU

2 like four or five pages in?

3 MR. CONDZAL: This is an exhibit to  
4 the motion. There is no question pending,  
5 correct?

6 MR. SAUTER: Not yet.

7 MR. CONDZAL: I need a quick men's  
8 room break.

9 MR. POSTRYGACZ: I am going to take  
10 one as well.

11 THE VIDEOGRAPHER: The time is 1:06  
12 p.m. We are going off the record.

13 (Recess taken)

14 THE VIDEOGRAPHER: The time now is  
15 1:12 p.m. We are back on the record.

16 MR. SAUTER: I want the record to be  
17 clear that counsel who does not appear to  
18 represent the witness asked for a break.  
19 We took a ten-minute break. We came back.  
20 I handed the witness an exhibit, and  
21 before I had a chance to ask any  
22 questions, another break was requested and  
23 now we are back on the record.

24 MR. POSTRYGACZ: Let the record  
25 indicate also that before this last break

1 ZACHARY LeBEAU

2 was taken, counsel asked if there was an  
3 open question. Mr. Sauter responded that  
4 there was no open question. And based on  
5 his instructions that the client can take  
6 any break needed as long as there is no  
7 open question, that is exactly what was  
8 done.

9 MR. SAUTER: Except the client didn't  
10 ask for a break, Neil.

11 Q. I am going to show you an Exhibit 9.

12 (Plaintiff's Exhibit 9, Order dated  
13 April 6, 2022, was so marked for  
14 identification, as of this date.)

15 Q. Turn to the very end of that  
16 document, please. First of all, do you recognize  
17 this document, Mr. LeBeau?

18 A. No.

19 Q. Do you understand from the face of  
20 this document, that it is an order by the judge  
21 in this case dated April 6, 2022?

22 A. Yes.

23 Q. Turn to the last page. Do you see  
24 the word "Conclusion"?

25 A. Yes.

ZACHARY LeBEAU

Q. You see the first sentence after that says, "For the foregoing reasons, Plaintiff's motion was granted in part and denied in part. Defendants are ordered immediately to produce all non-privileged documents that are responsive to Plaintiff's requests in Exhibit A to Plaintiff's motion."

Do you see that?

A. Yes.

Q. Do you understand that to be an order by Judge Caproni in this case?

A. Yes.

Q. Please turn back to Exhibit 8. I am representing to you that this is Exhibit A to the motion that we just read. I ask you to turn to the last page of this document. Request 8. This is one of the requests that SingularDTV put to you.

Do you see that it says "All documents concerning methods through which funds on a code wallet have been transferred at any point in, time including without limitation your transfer of ETH to an escrow agent on January 25, 2022 pursuant to an escrow agreement between you

1 ZACHARY LeBEAU

2 and SingularDTV." Do you see that request?

3 A. Yes.

4 Q. You understand that to be one of the  
5 requests for documents that Judge Caproni ordered  
6 you to respond to, correct?

7 A. Yes.

8 Q. So Tokit.IO is a method through which  
9 funds on a code wallet have been transferred at  
10 any point in time, correct?

11 A. Wallet address, yes.

12 Q. So is it surprising to you that there  
13 wasn't a single document that you produced  
14 mentioning Tokit.IO

15 A. No.

16 MR. POSTRYGACZ: Objection.

17 Q. You didn't search for Tokit.IO,  
18 correct?

19 A. I did not search for Tokit.IO.  
20 Having said that, the search I did do is so  
21 comprehensive that all those other keywords, if  
22 Tokit was involved, would have come up with  
23 something if Tokit was involved. It did not.

24 Q. What is your basis for saying that?

25 A. Well, the fact that the keywords are

1 ZACHARY LeBEAU

2 several and very specific, and I did not see any.  
3 There are no documents, e-mail or otherwise, that  
4 contain Tokit.IO referring to the ten questions  
5 or requests.

6 Q. You didn't actually search for  
7 Tokit.IO, so how could you know that?

8 MR. POSTRYGACZ: Objection. Asked  
9 and answered.

10 A. I did go through every single e-mail  
11 that I possess in between early 2016 until the  
12 day that I searched every single e-mail.

13 Q. So your testimony is that you  
14 searched every e-mail? Then I'm having trouble  
15 understanding why you ran search terms? Is your  
16 testimony now that you read every single e-mail  
17 that you have from 2016 to present?

18 MR. POSTRYGACZ: Objection.  
19 Harassing. Argumentative.

20 Q. Is that your testimony?

21 A. Yes.

22 Q. Every e-mail?

23 A. Yes.

24 Q. In your e-mail account?

25 A. Yes.



1 ZACHARY LeBEAU

2 MR. POSTRYGACZ: Objection, asked and  
3 answered. Do you want to ask it again?

4 Q. Do you understand you are under oath  
5 today?

6 A. Yes.

7 Q. Just like if you were in court?

8 A. Yes.

9 MR. POSTRYGACZ: Excuse me. Stop  
10 harassing my client. He testified. He  
11 knows he has to testify honestly. The  
12 fact that you don't like an answer does  
13 not give you the right to question whether  
14 or not he is telling the truth. He  
15 understands. He understood at the  
16 beginning that he is testifying under  
17 oath. He testified that it is the same as  
18 if he was before a judge. So stop  
19 harassing my client if you don't like the  
20 answers he is giving.

21 MR. SAUTER: To be fair, Neil, it is  
22 completely inconsistent with how he  
23 described searches five minutes ago.

24 MR. POSTRYGACZ: It is not  
25 inconsistent at all.

1 ZACHARY LeBEAU

2 MR. CONDZAL: You are rapid-firing  
3 the questions, and he lost track of what  
4 you were saying obviously. Do you really  
5 think he's going to testify white and then  
6 five minutes later testify black?

7 Q. So, Mr. LeBeau, you wrote in your  
8 declaration, "I personally conducted the  
9 following due and diligent searches for  
10 responsive documents as defined in the request as  
11 follows." Do you see that?

12 A. Yes.

13 Q. That is in paragraph 1 of your  
14 declaration, right?

15 A. Yes.

16 Q. If your testimony now is that you  
17 reviewed every single e-mail that you have, why  
18 did you run searches of your e-mail account?

19 MR. POSTRYGACZ: Attorney-client  
20 privilege.

21 Please don't answer. Don't answer.

22 MR. SAUTER: You instruct him not to  
23 answer?

24 MR. POSTRYGACZ: Attorney-client  
25 privilege, yes.

1 ZACHARY LeBEAU

2 Q. You didn't write in your declaration  
3 that you searched every e-mail that you have from  
4 2016 to the present, right?

5 MR. CONDZAL: I don't think the  
6 witness testified he searched eight years  
7 or six years of every e-mail that he has  
8 on any --

9 A. I didn't state that in the document.

10 Q. You didn't state that in the  
11 document, but your testimony today is that you  
12 reviewed every single e-mail from 2016 to the  
13 present. Correct?

14 A. That is the truth.

15 Q. Why didn't you write that in this  
16 declaration?

17 MR. POSTRYGACZ: Objection,  
18 attorney-client privilege. If you want,  
19 we can meet and confer on that.

20 MR. SAUTER: We absolutely will.

21 MR. POSTRYGACZ: All right.

22 Excellent.

23 Q. Do you ever communicate on messaging  
24 apps, Mr. LeBeau?

25 A. No.

1 ZACHARY LeBEAU

2 Q. Never?

3 MR. POSTRYGACZ: Objection. Asked  
4 and answered.

5 You can answer again.

6 A. I don't use messaging apps. Just  
7 text on my telephone.

8 Q. Did you search your texts?

9 A. Yes.

10 Q. You never use messaging apps?

11 MR. POSTRYGACZ: Objection. Asked  
12 and answered. Stop harassing my client.

13 A. No.

14 MR. POSTRYGACZ: You asked three  
15 questions in a row. He gave the same  
16 exact answer.

17 Q. Do you ever use WhatsApp?

18 A. No.

19 Q. Telegram?

20 A. No.

21 Q. Signal?

22 A. No, nothing like that, no.

23 Q. You never have?

24 MR. POSTRYGACZ: Objection. Asked  
25 and answered. Harassing my client.

1 ZACHARY LeBEAU

2 Q. Never once?

3 A. I don't use those applications.

4 Q. Today you don't?

5 A. I don't use them today.

6 Q. Have you in the past?

7 A. I have used WhatsApp in the past.

8 Q. Have you communicated with

9 SingularDTV employees on WhatsApp?

10 A. I communicated with Arie on WhatsApp.

11 Arie Levy-Cohen Cohen.

12 Q. Do you communicate with Kim Jackson

13 on WhatsApp?

14 A. No.

15 Q. Did you search your WhatsApp

16 communications in responding to these document

17 requests?

18 A. I don't have Arie's conversation on

19 WhatsApp. So no.

20 Q. You did not search WhatsApp?

21 A. I don't have WhatsApp. I don't have

22 Arie communications on WhatsApp.

23 Q. I want to go back to the first search

24 that you conducted in responding to the first

25 order from Judge Caproni to produce documents in

1 ZACHARY LeBEAU

2 this case. I asked you earlier about that search  
3 and you said you couldn't remember the specific  
4 search terms you used or e-mail addresses. I  
5 want to give you one more chance. Are there any  
6 specifics that you remember about that search?

7 MR. POSTRYGACZ: Objection. Asked  
8 and answered.

9 A. I don't recall.

10 Q. And am I correct that there is  
11 nothing that would refresh your recollection  
12 about how you went about the search that you  
13 conducted the first time around?

14 A. No.

15 MR. SAUTER: I am probably almost  
16 done, but let's take a five-minute break,  
17 and I will come back.

18 MR. POSTRYGACZ: Sure.

19 THE VIDEOGRAPHER: The time now is  
20 1:23 p.m. We're going off the record.  
21 This ends media label 3.

22 (Recess taken)

23 THE VIDEOGRAPHER: The time now is  
24 1:40 p.m. We are back on the record.  
25 This is the beginning of media label 4.

1 ZACHARY LeBEAU

2 BY MR. SAUTER:

3 Q. Mr. LeBeau, really just one more  
4 question for you. One of the lawsuits that is  
5 pending in the Federal Court concerns a payment  
6 to an alleged hacker of Singles tokens. Correct?

7 A. Correct.

8 MR. POSTRYGACZ: Objection.

9 Q. When those funds were sent, was that  
10 done through Tokit.IO using the seed phrase?

11 MR. POSTRYGACZ: Objection.

12 A. Yes.

13 MR. SAUTER: That is all the  
14 questions I have for now. I am going to  
15 leave the deposition open pending our meet  
16 and confer about some of the document  
17 scope and search issues that we've been  
18 discussing, but I don't have any further  
19 questions.

20 MR. POSTRYGACZ: Well, limited just  
21 to that, to the issues that we --

22 MR. SAUTER: Well, and some of the  
23 privilege calls that you've made.

24 MR. POSTRYGACZ: Yeah, the privilege  
25 calls, but nothing else, right, as far as

1 ZACHARY LeBEAU

2 anything else, you have asked all the  
3 questions?

4 MR. SAUTER: Subject to what will be  
5 raised in additional documents that might  
6 be produced, yes.

7 MR. POSTRYGACZ: What other documents  
8 are going to be produced?

9 MR. SAUTER: Well, I think we're  
10 going to have an issue with the search  
11 that was conducted and we will discuss  
12 that and the privilege calls.

13 MR. POSTRYGACZ: Well, that would be  
14 pursuant to a court order. We are not  
15 going to agree to produce any further  
16 documents. So there is no subject to  
17 further production, unless there is a  
18 court order. So the deposition besides  
19 the meeting and confer over these issues,  
20 otherwise you're done with your questions,  
21 correct?

22 MR. SAUTER: Yes, subject to whatever  
23 comes out of our discussions, I'm done.

24 MR. POSTRYGACZ: Okay.

25 THE VIDEOGRAPHER: The time now is



ZACHARY LeBEAU

1:42 p.m. We are going off the record.

This ends media unit 4 and concludes

today's portion of the testimony.

(Time noted: 1:42 p.m.)

Subscribed and sworn to

before me this\_\_\_\_day of\_\_\_\_\_, 2022.

C E R T I F I C A T I O N

I, JOSEPH R. DANYO, a Shorthand Reporter  
and Notary Public, within and for the State of New  
York, do hereby certify:

That I reported the proceedings in the  
within entitled matter, and that the within transcript  
is a true record of such proceedings.

I further certify that I am not related, by  
blood or marriage, to any of the parties in this  
matter and that I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 12th day of May, 2022.



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JOSEPH R. DANYO

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Name of Deponent: ZACHARY LeBEAU

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Signature of Deponent

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

(Notary Public) My Commission Expires: \_\_\_\_\_